

PROPOSAL NO.: LAFCO 3165

HEARING DATE: JULY 20, 2011

**RESOLUTION NO. 3140**

**A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF SAN BERNARDINO MAKING DETERMINATIONS ON LAFCO 3165 AND APPROVING THE REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF BARSTOW, BARSTOW FIRE PROTECTION DISTRICT, ODESSA WATER DISTRICT AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS NORTH DESERT SERVICE ZONE, COUNTY SERVICE AREA SL-1 AND COUNTY SERVICE AREA 70 (WEST LENWOOD ISLAND).** (The reorganization area is generally located west of Lenwood Road, east and west of Main Street (National Trails Highway) and encompasses 145 +/- acres within three separate areas: Area 1- Annexation to the City of Barstow and Odessa Water District and Detachment from County Service Area 70 encompasses 145 +/- acres; Area 2 - Annexation to the Barstow Fire Protection District and Detachment from San Bernardino County Fire Protection District and its North Desert Service Zone encompasses 61 +/- acres generally bordered by a combination of parcel lines, Sweeten Lane, and the BNSF Railroad Right-of-Way (existing Barstow Fire Protection District boundaries) on the east, south, west and north; and Area 3 - Detachment from County Service Area SL-1 encompasses 88 +/- acres, generally bordered by the BNSF Railroad Right-of-Way (existing CSA SL-1 boundary) on the north, a combination of parcel lines and Lenwood Road on the east, and parcel lines (existing CSA SL-1 boundaries) on the south and west.)

**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;

## RESOLUTION NO. 3140

**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 determined to modify this proposal to include the detachment of County Service Area SL-1, as a function of the reorganization;

**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 3165.

**Condition No. 3.** All previously authorized charges, fees, assessments, and/or taxes currently in effect by the City of Barstow and Barstow Fire Protection District (annexing agencies) 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 Barstow 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.** 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. 6.** 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 following findings related to the proposed reorganization:

- The island area comprises a total of 145+/- acres, 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 89% surrounded by existing City of Barstow boundaries which complies with the Commission's 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

## RESOLUTION NO. 3140

physical improvements on many of the properties within the boundaries of the island area;

- The island area does not contain prime agricultural land as such is defined by LAFCO statutes;
- The island area will benefit from the annexation and has benefitted from services provided by the Barstow Fire Protection District through existing mutual aid agreements;
- The City of Barstow has conducted an outreach/education program prior to submission of the reorganization application; and,
- The area is not included within a County Redevelopment area.

Therefore, having made said findings and 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 the study area is legally inhabited, containing 32 registered voters as of June 22, 2011.
2. The study area is within the spheres of influence assigned the City of Barstow, the Odessa Water District and the Barstow Fire Protection District.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area is \$4,706,421 (\$1,774,111 land; \$2,932,310 improvements).
4. In compliance with the requirements of Government Code Section 56157 and Commission Policy, LAFCO staff has provided individual notices to landowners (totaling 44 notices) and registered voters (totaling 32 voters) within the reorganization area. Notice was provided to surrounding landowners (118) and registered voters (42). Comments from landowners, registered voters and any affected local agency have been reviewed and considered by the Commission in making its determination. No protest or expression of opposition to this reorganization and its island provisions has been received.
5. Legal advertisement of the Commission's consideration has been provided through publication in the *Desert Dispatch*, 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 Barstow has pre-zoned the study area through adoption of a general plan amendment and zone change on November 1, 2010 through adoption of Ordinance 867-2010. The land use designations to be applied within the reorganization area upon annexation are: RS-16 (Single Family Residential), MU (mixed Land Use), PF (Public Facilities), CG (General Commercial), M-1 (Light Industrial) and M-2 (General Industrial). The pre-zone designations are consistent with the existing land use for the area, and these designations will take effect upon annexation. Pursuant to the provisions of Government

## RESOLUTION NO. 3140

Code Section 56375(e), the pre-zoning designations shall remain in effect for a minimum of two years following annexation unless specific actions are taken by the City Council.

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 island territory. 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.
8. The area in question is presently served by the following local public agencies: County of San Bernardino, San Bernardino County Fire Protection District and its North Desert Services Zone (portion), County Service Area SL-1 (streetlighting – portion of the area), County Service Area 40 (TV translator), County Service Area 70 (multi-function), Barstow Cemetery District, Barstow Fire Protection District (portion), Mojave Water Agency, and Mojave Desert Resource Conservation District  
  
County Service Area SL-1, County Service Area 70, and the San Bernardino County Fire Protection District and its North Desert Service Zone will be detached from the area as a function of the reorganization. No other public agencies will be affected by this proposal as they are regional in nature. Water service will continue to be provided by the Golden State Water Company, a California Public Utilities Commission regulated private water company.
9. Upon annexation, the City of Barstow will extend its services as required by the existing and anticipated land uses and the progression of development. The City of Barstow has submitted a plan for the extension of municipal services to the study area on behalf of itself and the Odessa Water District, as mandated by Government Code Section 56653 and certified the adequacy of the Plan, as required by law. The financial information presented within the Plan for Service indicates that the extension of services can be maintained and operated through the existing revenue resources available through the transfer of property taxes and fees for service. The Plan for Service indicates that the City can, at a minimum, maintain the level of service delivered and can improve the level and range of selected services currently available in the area. 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.

Upon annexation the Barstow Fire Protection District, a subsidiary district of the City of Barstow, will extend its services as required by the existing land uses and the progression of development. The Barstow Fire Protection District has submitted a plan for the extension of its fire protection and emergency medical response service to the study area as mandated by Government Code Section 56653 and certified to the adequacy of the Plan, as required by law. The Plan for Service indicates that the extension of services can be

## RESOLUTION NO. 3140

maintained and operated through the existing revenue resources available through the transfer of property taxes and fees for service. The Plan for Service indicates that the Barstow Fire Protection District can, at a minimum, maintain the level of service delivered and can improve the level and range of services currently available in the area. 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.

10. The City of Barstow, the County of San Bernardino, the San Bernardino Associated Governments (SANBAG) acting as the San Bernardino County Transportation Authority and San Bernardino County Transportation Commission have signed a cooperative agreement related to funding the construction of the Lenwood Road Rail-Highway Grade Separation Project. The terms of the agreement authorized for signing by the County Board of Supervisors on June 7, 2011 shall be applied following the successful completion of LAFCO 3165.
11. The study area can benefit from the availability of municipal-level services from the City of Barstow and have benefited from fire protection and emergency response from the Barstow Fire Protection District through mutual aid.
12. The reorganization 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. In addition, the reorganization proposal will clarify the fire protection and emergency response services with the entity currently providing them.
13. This proposal may assist the City in its ability to achieve its fair share of the regional housing needs as a portion of the undeveloped study area is zoned for single family residential and mixed use land uses.
14. With respect to environmental justice, the reorganization area will benefit from the extension of services and facilities from the City and its subsidiary districts and, at the same time, will not result in unfair treatment of any person based upon race, culture, or income.
15. The County of San Bernardino and the City of Barstow have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement will be amended to include the transfer of revenues associated with the modification to include the detachment of County Service Area SL-1. These actions will fulfill the requirement of Section 99 of the Revenue and Taxation Code.
16. 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 Barstow, the Odessa Water District or Barstow Fire Protection District. The regular County assessment roll will be utilized by the City of Barstow, Odessa Water District, and Barstow Fire Protection District.

**SECTION 5.** The reason for this reorganization, as provided by the City of Barstow, is that the proposed reorganization is to provide for a more logical boundary and a more efficient boundary for

