


LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: DECEMBER 8, 2015
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION



SUBJECT: Agenda Item #7 -- Presentation Required Pursuant to Section IV - Application Processing, Policy 11 – Island Annexation Pursuant to Government Code Section 56375.3 – Proposed Annexation to the City of Rialto and West Valley Water District of the Lytle Creek Ranch Specific Plan Anticipating the Development of more than 500 Units

RECOMMENDATION:

Staff recommends that the Commission provide its direction to LAFCO related to the methods, if any, to address the Island Areas of North Rialto.

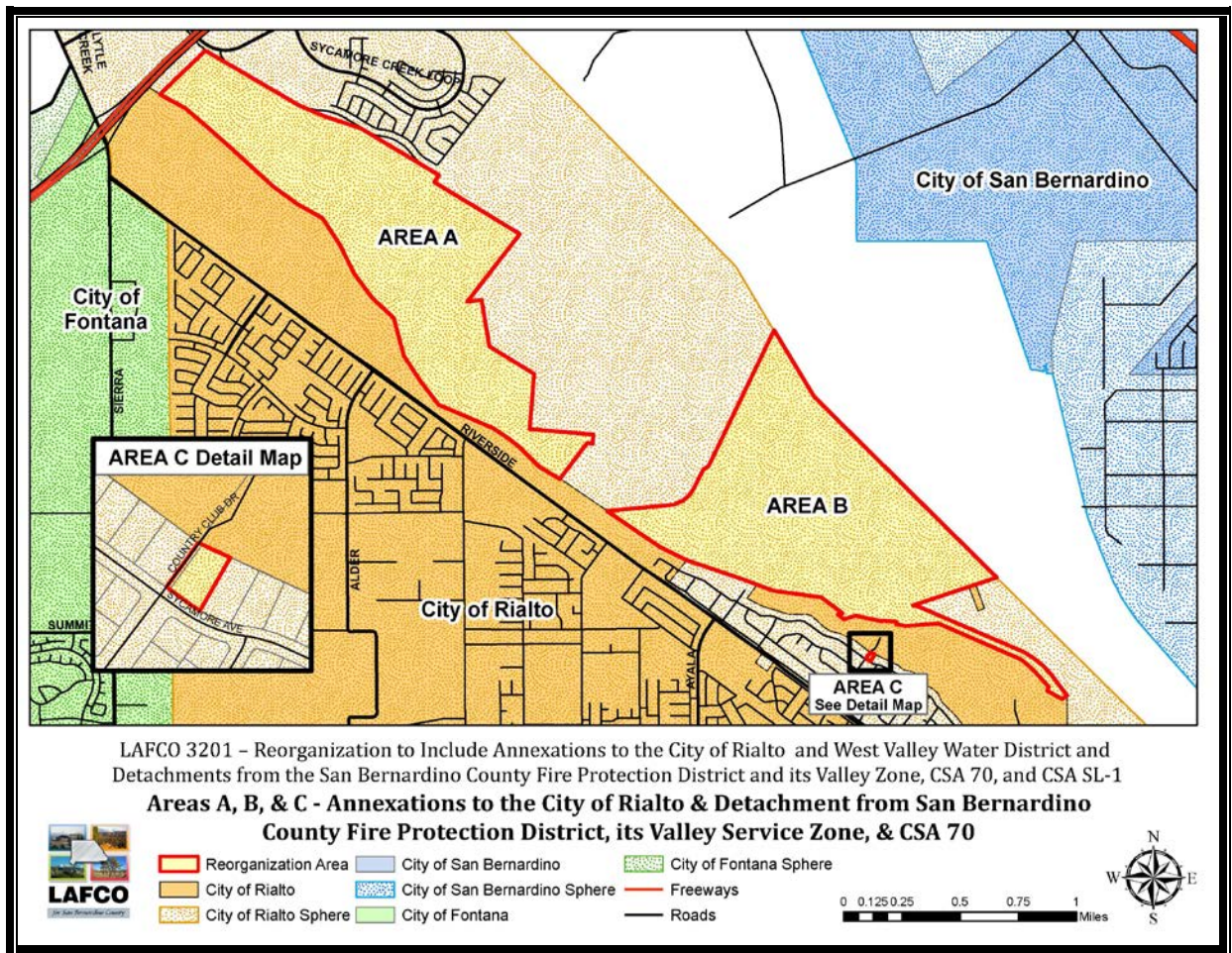
BACKGROUND:

In September 2011, the Commission modified its Island Annexation Policy removing the requirement for a City to initiate the annexation of its islands when considering a major development application. This amendment was based upon two changes in circumstances: (1) the passage of SB 89 by the legislature removing the discretionary Motor Vehicle In-lieu fee on a per capita basis made the determination of sustainability for service delivery questionable; and (2) the continuing desire of the Commission to look at these issues on a case-by-case basis. The policy language now reads:

- 4. The Commission directs that upon receipt of a development-related annexation or reorganization application, which anticipates development of 500 or more dwelling units and/or 500,000 square feet of commercial/ industrial development, LAFCO staff shall, within 90-days, place an item on the Commission's discussion calendar to review that City's unincorporated island areas which meet the criteria identified in Government Code Section 56375.3. The questions to be reviewed shall include, but not be limited to, the feasibility of annexing the island areas as a condition of application approval, the anticipated revenues available to fund service extension should the areas be annexed, and*

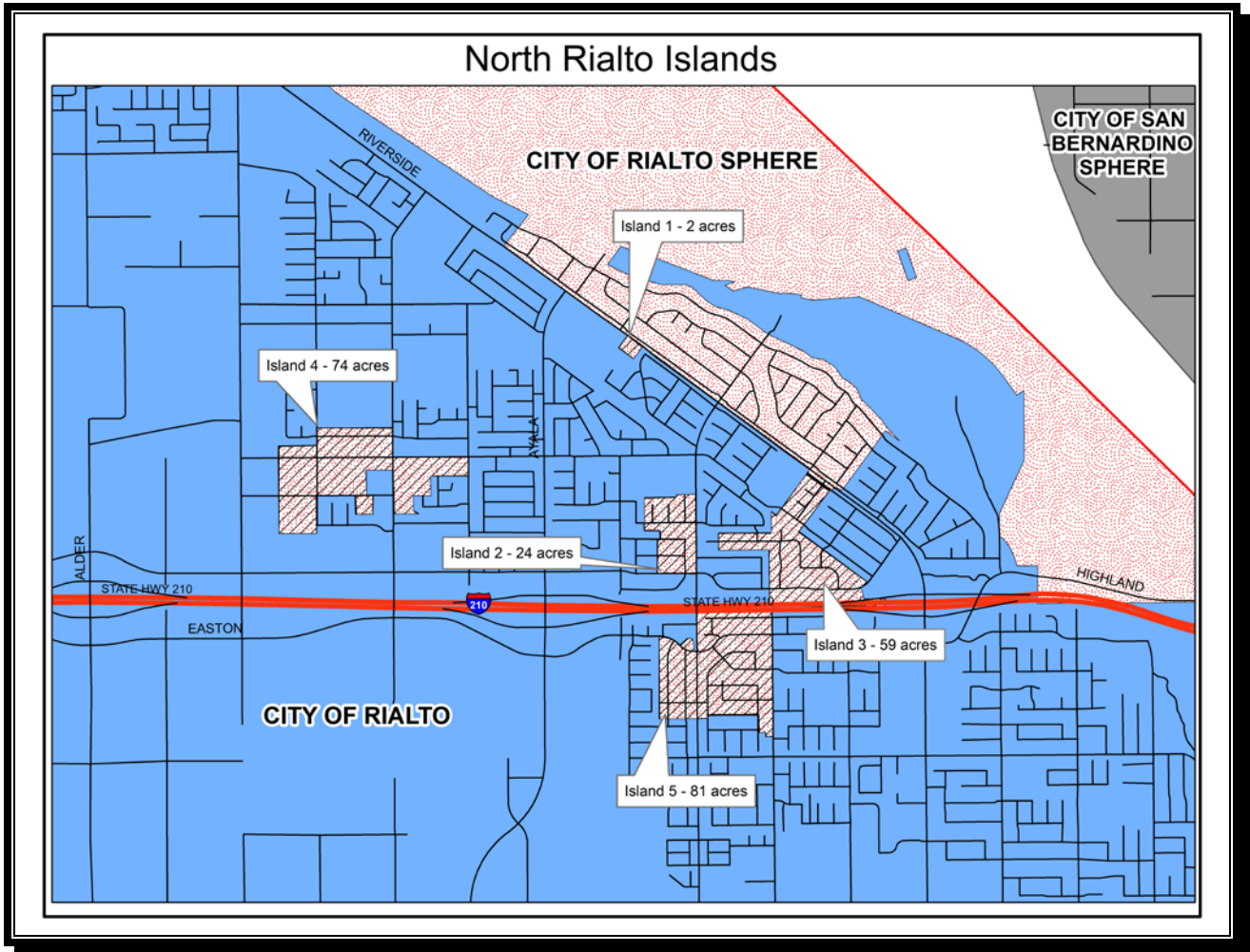
any special circumstance in reference to original change of organization application or the island areas.

In September 2015, the City of Rialto submitted an application for annexation of two portions of the adopted Lytle Creek Rancho Specific Plan. The area is shown on the map below and in Attachment #1, and excerpts from the Specific Plan are included as Attachment #2. The annexation proposal includes the anticipated development of 3,187 residential units and 235,645 square feet of commercial development. The specific plan includes area already a part of the City of Rialto, bringing the total development to 6,260 residential units and 668,732 square feet of commercial development. The development criteria of the island annexation policy have clearly been met requiring the discussion of the unincorporated island areas adjacent to the project.



The island areas which meet the criteria outlined in Government Code Section 56375.3 of less than 150 acres, substantially or totally surrounded, etc. and the Commission’s

policies related to the determination of substantially surrounded in close proximity to the project are, shown on the graphic below along with their respective acreages.



As noted at the November hearing, conspicuously missing from this graphic is the El Rancho Verde Island which will become totally surrounded through the processing of LAFCO 3201 should it be approved. This island area is 212 +/- acres; therefore, it does not meet the criteria allowing for an expedited annexation procedure. In addition, when considering LAFCO 3201 and the creation of El Rancho Verde as a totally surrounded island, the Commission will be required to make the determinations required by Government Code Section 56375(m) that: (1) the application of restrictions identified in Government Code Section 56744 (an island cannot be created by action of an annexation) would be detrimental to the orderly development of the community and (2)

the area to be enclosed cannot reasonably be annexed to another city or incorporated as a new city.

It is the position of LAFCO staff that LAFCO 3201 presents the last opportunity for the Commission to look at requiring the annexation of the North Rialto islands as a companion action. This does not preclude efforts which may be undertaken between the County and City, along with LAFCO support, to address a comprehensive island annexation plan to provide for clarification and realignment of jurisdictions but the incentive may be different.

In response to the staff's determination that this is the last opportunity for requiring that these islands to be considered, we have evaluated the revenues available from within these areas for transfer to the City of Rialto and the anticipated cost for provision of services based upon the calculations used in the Plan for Service signed by the City of Rialto for LAFCO 3201. That information is provided as follows:

- **REVENUES:**

In order to evaluate the potential revenues that an island annexation would provide to the City of Rialto, LAFCO staff has utilized the Plan for Service presented by the City for LAFCO 3201 as the baseline for projections. However, there are several significant issues associated with the island annexations, outlined as follows:

1. Ad valorem property tax transfer

San Bernardino County has established policies related to the transfer of ad valorem property tax, generally known as the "share the pain" process. In the transfer, the historic share assigned the City is determined, what would have been the historic allocation of property tax is determined based upon that share, and then the detaching agencies' revenue is subtracted from the historic share of revenue. The remaining amount is then equally split between the City and County General Fund, generally resulting in a loss of percentage share for the annexing City. On rare occasions there is a surplus of funds remaining following the policy calculation which are also split between the annexing City and the County General Fund. However, in an island annexation the County has agreed to provide the City its full historic share.

In the case of the City of Rialto, the historic share is less than the amount of the detaching agencies at 13.642183%. The detaching agencies have shares which total 21.043441% of property tax revenues, individually identified as follows: CSA SL-1 (street lighting entity) 1.45458%, County

Fire Valley Service Zone 17.184959% and County Fire Administration (parent agency) 2.443024%. Staff has estimated that the total revenues that would be received based upon 2015-16 data is \$201,207. According to the County's past practice, compared to a standard annexation this would be an increase of \$70,762.

2. Utility tax application.

An additional item of significance in considering these islands is a recent judicial decision related to the imposition of special taxes in an island annexation situation. The case, *Citizen's Association of Sunset Beach vs Orange County Local Agency Formation Commission*, determined that the provisions of Prop 218 do not apply to island annexations, and the existing taxes that had been previously authorized by the annexing City could be extended to the island without a vote. This decision is significant for consideration of island annexations in San Bernardino County as this was not the interpretation prior to the decision in 2011 (a copy of the Superior Court and Appellate Court Published Decision included as Attachment #4). Based upon the calculation of Stan Hoffman and Associates for LAFCO 3201, this represents revenues of approximately \$235,665 annually based upon existing populations in the five islands estimated at 2,250. This would be a substantial source of revenue for the City of Rialto

• **EXPENDITURES:**

LAFCO staff has again used the expenditure data provided in the Plan for Service for LAFCO 3201 and are outlined in Attachment #3. However, a significant exception has been used by LAFCO staff and that is the exclusion of fire protection/emergency response costs. These are estimated by the Hoffman Plan for Service as \$149.91 per capita for a total of \$337,298 for all five islands. These costs have been excluded from the estimates on the basis of existing, and long term, contractual arrangements between County Fire and the City of Rialto that the City would serve the unincorporated islands without compensation in an automatic aid arrangement. This arrangement was most recently memorialized in August of 2012 with a five-year agreement for service.

The estimated expenses and revenues for the individual islands are shown below and are included as Attachment #3 to this report.

ITEM #7 – REVIEW OF CITY OF RIALTO
ANNEXATION WITH LAFCO
ISLAND ANNEXATION POLICY
December 10, 2015

Rialto North Islands							
		Island 1	Island 2	Island 3	Island 4	Island 5	
	Assessed Value	\$ 151,337	\$ 15,929,418	\$ 23,696,269	\$ 16,154,640	\$ 39,682,548	
	Tax Revenue	\$ 1,513	\$ 159,294	\$ 236,963	\$ 161,546	\$ 396,825	
	2015 Est. Population	\$ 4	\$ 276	\$ 458	\$ 526	\$ 986	
	2015 Est. Households	\$ 1	\$ 76	\$ 125	\$ 110	\$ 241	
	Cost Factor						
	per capita						
	Note						
		Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	TOTAL COST
Recurring Costs							
Property Tax							
	CSA SL-1	\$ 21	\$ 2,255	\$ 3,354	\$ 2,287	\$ 5,617	\$ 13,534
	County Fire - Valley Service Zone	\$ 260	\$ 27,375	\$ 40,722	\$ 27,762	\$ 68,194	\$ 164,313
	County Fire - Admin	\$ 37	\$ 3,892	\$ 5,789	\$ 3,947	\$ 9,695	\$ 23,360
Sales Tax							
	In lieu property tax (sales & use tax)	\$ 22.97	\$ 6,340	\$ 10,521	\$ 12,083	\$ 22,650	\$ 51,685
	Property transfer tax-turnover		\$ 438	\$ 652	\$ 444	\$ 1,091	\$ 2,629
	In lieu property tax (VLF)		\$ 22,986	\$ 34,194	\$ 23,311	\$ 57,262	\$ 137,971
	Franchise Fees	\$ 27.78	\$ 7,667	\$ 12,723	\$ 14,612	\$ 27,391	\$ 62,505
	SB509 sales tax - safety	\$ 4.78	\$ 1,319	\$ 2,189	\$ 2,514	\$ 4,713	\$ 10,755
	Utility Users Tax	\$ 104.74	\$ 28,908	\$ 47,971	\$ 55,093	\$ 103,274	\$ 235,665
	Animal Licenses and fees	\$ 1.53	\$ 422	\$ 701	\$ 805	\$ 1,509	\$ 3,443
	Fines, forfeits, and penalties	\$ 4.30	\$ 1,187	\$ 1,969	\$ 2,262	\$ 4,240	\$ 9,675
	County Landfill excavation charges	\$ 2.13	\$ 588	\$ 976	\$ 1,120	\$ 2,100	\$ 4,793
Charges for Current Services							
	Animal Control Fees	\$ 0.13	\$ 36	\$ 60	\$ 68	\$ 128	\$ 293
	Other Police Related Fees	\$ 2.64	\$ 729	\$ 1,209	\$ 1,389	\$ 2,603	\$ 5,940
	Fire Related Inspections	\$ 2.96	\$ 817	\$ 1,356	\$ 1,557	\$ 2,919	\$ 6,660
	Ambulance Service Fees/Subscriptions	\$ 16.51	\$ 4,557	\$ 7,562	\$ 8,684	\$ 16,279	\$ 37,148
	Weed & Lot Cleaning	\$ 0.87	\$ 240	\$ 398	\$ 458	\$ 858	\$ 1,958
	Other Current Services	\$ 0.04	\$ 11	\$ 18	\$ 21	\$ 39	\$ 90
	Interest - 0.67% of recurring Gen. Revenues		\$ 735	\$ 1,155	\$ 1,061	\$ 2,215	\$ 5,175
	Rents, concessions	\$ 1.96	\$ 541	\$ 898	\$ 1,031	\$ 1,933	\$ 4,410
	Admin, Misc Fees	\$ 5.97	\$ 1,648	\$ 2,734	\$ 3,140	\$ 5,886	\$ 13,433
	Gas Fund Transfer	\$ 14.75	\$ 4,071	\$ 6,756	\$ 7,759	\$ 14,544	\$ 33,188
	Other Transfers	\$ 36.78	\$ 10,151	\$ 16,845	\$ 19,346	\$ 36,265	\$ 82,755
	Total Projected Revenues		\$ 1,553	\$ 126,914	\$ 200,750	\$ 190,755	\$ 391,403
Recurring Costs							
General Government							
	Police	\$ 243.23	\$ 67,131	\$ 111,399	\$ 127,939	\$ 239,825	\$ 547,268
	Recreation	\$ 12.41	\$ 3,425	\$ 5,684	\$ 6,528	\$ 12,236	\$ 27,923
Development Services							
	Engineering	\$ 3.95	\$ 1,090	\$ 1,809	\$ 2,078	\$ 3,895	\$ 8,888
	Business Licensing	\$ 5.53	\$ 1,526	\$ 2,533	\$ 2,909	\$ 5,453	\$ 12,443
	Code Enforcement	\$ 6.88	\$ 1,899	\$ 3,151	\$ 3,619	\$ 6,784	\$ 15,480
Public Works							
	Public Works Administration	\$ 4.34	\$ 1,198	\$ 1,988	\$ 2,283	\$ 4,279	\$ 9,765
	Community Bldg Maintenance	\$ 10.88	\$ 3,003	\$ 4,983	\$ 5,723	\$ 10,728	\$ 24,480
	Park Maintenance						
	Graffiti Removal	\$ 1.14	\$ 315	\$ 522	\$ 600	\$ 1,124	\$ 2,565
	Engineering Services & Projects	\$ 3.00	\$ 828	\$ 1,374	\$ 1,578	\$ 2,958	\$ 6,750
	Street Maintenance	\$ 23.97	\$ 6,616	\$ 10,978	\$ 12,608	\$ 23,634	\$ 53,933
	Traffic Safety	\$ 7.84	\$ 2,164	\$ 3,591	\$ 4,124	\$ 7,730	\$ 17,640
	Storm Drain Program	\$ 3.65	\$ 1,007	\$ 1,672	\$ 1,920	\$ 3,599	\$ 8,213
	Contingency - 5%	\$ 16.34	\$ 4,510	\$ 7,484	\$ 8,595	\$ 16,112	\$ 36,767
	Total Recurring Costs		\$ 1,373	\$ 94,712	\$ 157,168	\$ 180,503	\$ 338,357
	Net Recurring Surplus		\$ 180	\$ 32,201	\$ 43,583	\$ 10,253	\$ 53,047
Sources: Assessed Value and Tax Revenue: County Auditor; Estimated Population and Households: ESRI; Cost Factor: Plan for Service for LAFCO 3201							
Notes:							
Note 1: 0% of per capita sales tax because area already developed							
Note 2: \$0.55 per \$1,000 assessed valuation of a 5% turnover rate							
Note 3: \$1,443 per \$1M assessed valuation							
Note 4: will sunset in 2018 unless renewed by voter majority							

The staff’s review of the revenues and expenditures shows that there will be a cash balance available to fund reserves and/or capital replacement costs. The Commission’s policies require that in order to move forward with a proposal it must show that the proposal would be sustainable for at least the five years of the fiscal impact analysis. Staff has not provided a five year project, but the following summarizes the revenues and costs outlining the surplus by island area for FY 2015-16:

Rialto Islands - Summary						
	Island 1	Island 2	Island 3	Island 4	Island 5	Total
Total Revenues	\$ 1,553	\$ 126,914	\$ 200,750	\$ 190,755	\$ 391,403	\$ 911,375
Total Costs	\$ 1,373	\$ 94,712	\$ 157,168	\$ 180,503	\$ 338,357	\$ 772,112
Net Recurring Suplus	\$ 180	\$ 32,201	\$ 43,583	\$ 10,253	\$ 53,047	\$ 139,263

CONCLUSION:

Over the past several years, LAFCO staff has been contacted by individuals interested in the vacant parcels contained within Island #4. However, these discussions were not productive due to the need to address effective and efficient boundaries within the Island which would require inclusion of inhabited areas which were perceived to doom any such standard proposal. In the past, the City of Rialto has rejected the Commission’s requirement to annex the island areas as their analysis showed a substantial deficit in funding. This deficit was primarily based on the exclusion of the utility tax. As outlined above, that situation has changed.

Based upon the information amassed by staff related to this discussion, it is our position that further discussions related the North Rialto Islands in total should be pursued under the provision of Government Code Section 5637.3 in partnership with the County and City of Rialto. Elimination of these islands would clarify responsibility, provide for good government in the delivery of service, and in the case of fire protection and emergency response, provides for inclusion within the jurisdiction which currently provides this essential public safety service. This position has been conveyed to the City of Rialto representatives which attended the LAFCO Departmental Review Committee meeting held on LAFCO 3201 with the acknowledgement that additional financial information needed to be finalized. It has also been outlined in discussions with County staff who have expressed concerns about further isolation of service delivery obligations. For all these reasons and the provision of financial data indicating there would not be financial deficit, staff believes that now is the appropriate time to work together to move forward

toward annexation of these islands. Staff awaits further direction from the Commission on this effort.

Staff will be happy to answer any questions of the Commission prior to or at the Commission hearing.

/krm

Attachments:

1. [Vicinity Map of LAFCO 3201 and Island Areas in Close Proximity](#)
2. [Excerpts from Lytle Creek Ranch Specific Plan Adopted by the City of Rialto](#)
3. [LAFCO Estimated Revenues and Expenditures for the Five North Rialto Islands](#)
4. [Decision in *Citizen's Association of Sunset Beach vs Orange County Local Agency Formation Commission*](#)