

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

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DATE: APRIL 11, 2005
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #5 – LAFCO #2968 – Reorganization to Include City of Fontana Annexation No. 161 and Dissolution of County Service Area 70 Improvement Zone P-9

INITIATED BY:

City of Fontana Council Resolution

RECOMMENDATION:

Staff is recommending that the Commission:

1. Take the following actions with respect to environmental review:
 - a) Certify that the Final Environmental Impact Report (FEIR) (State Clearinghouse No. 2003031083) and Addendum to the FEIR (Fontana Development Code Update) adopted by the City of Fontana for the Fontana General Plan Update and pre-zoning of its sphere of influence and the Addendum prepared by the Commission's Environmental Consultant for the Dissolution of CSA 70 Improvement Zone P-9 have been independently reviewed and considered by the Commission and its staff;
 - b) Determine that the FEIR, Addendum to the FEIR and the Addendum prepared by the Commission's Environmental Consultant related to the Dissolution of CSA 70 Improvement Zone P-9 are adequate for the Commission's use, as a CEQA Responsible Agency, for its consideration of LAFCO 2968;
 - c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures

identified in the City's environmental documents are the responsibility of the City and others, not the Commission;

- d) Adopt the Findings of Fact and Statement of Overriding Considerations as presented by the Commission's Environmental Consultant; and,
 - e) Direct the Clerk to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
2. Expand the consideration of LAFCO 2968 to include the dissolution of County Service Area 70 Improvement Zone P-9 subject to the following conditions:
- a) County Service Area 70 Improvement Zone P-9 shall be dissolved as a function of this reorganization.
 - b) Upon the dissolution of County Service Area 70 Improvement Zone P-9 (hereinafter CSA 70 P-9), the City of Fontana shall be designated as the successor agency to all rights, responsibilities, properties, contracts, equipment, assets and liabilities, obligations and functions attributable to CSA 70 P-9 to be maintained in a separate account to be used for providing services within Tract 15581. This shall include the transfer of the parcel identified as Assessor Parcel No. 0230-261-26 abandoned by the County Board of Supervisors as a park pursuant to action taken March 15, 2005.
 - c) All special charges, including delinquent charges and any and all other collections or assets of the Improvement Zone to be dissolved, shall accrue and be transferred to the City of Fontana as the successor agency. The annual service charge for CSA 70 P-9, currently set at \$394 per year, shall no longer be assessed property owners within the boundaries of the District, beginning with the tax year immediately following completion of the reorganization to include dissolution.
 - d) Upon the effective date of the dissolution of CSA 70 P-9, any funds currently deposited with the District and future receipts of revenues shall be transferred to the City of Fontana, as the successor agency, and the successor agency shall separately maintain such funds in accordance with the provisions of Government Code Section 57462.
 - e) Pursuant to the provisions of Government Code Section 56885.5(a)(4), the County of San Bernardino, as governing body of CSA 70 P-9, is

prohibited from taking the following actions unless an emergency situation exists as defined in Section 54956.5:

- 1) Approving 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 agency beyond that provided in the current budget at the time the dissolution is approved by the Commission.
- f) All streetlights currently the responsibility of CSA 70 P-9 and County Service Area SL -1 within the reorganization area shall be transferred to the City of Fontana 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 Fontana shall sign the authorization form requesting Southern California Edison to transfer the specific lights to the City of Fontana accounts.
- g) Standard terms and conditions that include the “hold harmless” clause for potential litigation costs, continuation of fees, charges, assessments, and the identification that the transfer of utility accounts will occur within 90 days of the Certificate of Completion.
3. Adopt LAFCO Resolution No. 2869 reflecting the Commission’s findings, determinations and conditions for the proposal.

BACKGROUND INFORMATION:

In August 2004, the City of Fontana submitted an application to annex approximately 92+/- acres, initiated by City Council resolution. The study area is generally located along the south side of Foothill Blvd. extending from East Avenue at the City of Rancho Cucamonga city limits to Cherry Avenue on the east. The proposal is a reorganization due to the two separate areas proposed for annexation as outlined on the vicinity and location maps included in Attachment #1.

The City’s purposes in submitting this reorganization, as outlined in its application, were threefold, summarized by staff as follows:

1. To provide municipal services such as street improvements, traffic control and zoning consistency along the Foothill Blvd. corridor;

2. The California Department of Transportation agreed to and has relinquished responsibilities for Foothill Blvd. to the City of Fontana, removing its highway status, so the City wishes to annex the area to make necessary improvements; and,
3. The annexation request will “square off” the City’s boundaries in this portion of the Foothill Blvd. corridor, thereby reducing the confusion associated with meandering City/County boundaries.

As staff began its review of the application, it was determined that it would need to be expanded to include the additional element of dissolving an improvement zone of County Service Area 70. CSA 70 P-9 was created in 1995 to provide for streetlighting and park and recreation services for the maintenance of the landscaped entrance to Tract 15581 and the pocket park created as a condition of approval for the Tract. The creation of this agency allowed for a funding mechanism, through the imposition of a per parcel assessment of \$394 per year, to support its authorized services. The dissolution of CSA 70 P-9 is required due to the elimination of the parent district, County Service Area 70, upon annexation to the City of Fontana. The Commission’s consideration of this application was originally scheduled for the January 2005 hearing, but was continued to allow for completion of necessary County proceedings to abandon the pocket park currently maintained by CSA 70 P-9 in order that it could be transferred to the City of Fontana.

Therefore, this is the first official hearing regarding this application and the report will discuss the four major areas of consideration – boundaries, land uses, service delivery and the effect on other local governments, and environmental considerations. In addition, it will include a presentation of the required determinations as outlined in Government Code Section 56668.

BOUNDARIES:

The study area consists of two separate areas comprising a total of 92 +/- acres. They are generally described as follows:

1. Area 1 encompasses approximately 30 +/- acres and is generally bordered by Foothill Boulevard (existing City of Fontana boundary) on the north, parcel lines (existing City of Fontana boundary) on the east, parcel lines on the south and East Avenue (existing City of Rancho Cucamonga boundary) on the west.
2. Area 2 encompasses approximately 62 +/- acres and is generally bordered by a combination of Foothill Boulevard and parcel lines (existing City of Fontana boundary) on the north, a combination of parcel lines and Cherry

Avenue on the east, parcel lines on the south and parcel lines (existing City of Fontana boundary) on the west.

3. In addition, as noted above, LAFCO staff has expanded the consideration to include dissolution of CSA 70 P-9. The area of CSA 70 P-9 encompasses 5 +/- acres generally located north and south of Chesebro Court, east of Almond Avenue.

The reorganization proposal does not present any boundary issues or concerns. The area proposed for reorganization encompasses an easily identifiable boundary for service delivery represented by parcel lines on the south and it includes the entirety of CSA 70 P-9 allowing for the transfer of that entity's responsibility to the City for future services.

LAND USE:

The study area is currently a mix of vacant and developed lands. The existing uses include commercial business, single and multi-family residential development, a mobilehome park, and the Almond Elementary School. Surrounding land uses include: to the north (within the City of Fontana) are residential uses comprised of single-family detached housing; to the east are commercial and residential uses with scattered vacant lands within the unincorporated area; to the south are residential uses and scattered vacant lands; and to the west are vacant lands within the City of Rancho Cucamonga.

The City of Fontana General Plan designation for this area includes: Community Commercial (C-C) which permits a range of retailing, wholesaling, and service activities; Single Family Residential (R-SF) which permits 2.1 to 5 dwelling units per acre; Open Space (O-S) which permits quarries, flood control channels, groundwater percolation basins and agriculture; and Public Facilities (P-PF) which permits libraries, post offices, neighborhood center, and similar facilities. In addition, the majority of the reorganization area is overlaid with a "Boulevard Overlay" District within the City General Plan. The City General Plan outlines the intent of this overlay area to be: "(1) Encourage focused commercial development at key roadway intersections; (2) Enhance flexibility in developing by allowing for a complementary mix of higher density residential uses, professional offices, civic and institutional uses, and mixed-use projects that are compatible with those uses allowed by the underlying land use designation; (3) Ensure compatibility between adjoining uses; and (4) Provide a critical residential mass to support corridor commercial uses".

The current County Land Use designations for this area include: (1) General Commercial (CG) which permits crop cultivation, professional services, recreation/entertainment, repair services and wholesale/warehouse services; (2) Neighborhood Commercial (CN) which permits crop cultivation, accessory uses,

professional services, retail trade, convenience support services; (3) Rural Living (R1-3/low density residential – a maximum of three dwelling units per acre) which permits single dwelling units, social care facilities with six (6) or fewer clients, animal raising, and accessory uses; and (4) Multiple Residential (RM-7/medium density residential – a maximum of seven dwelling units per acre) which permits single or multiple dwelling units, social care facilities and accessory uses.

As outlined above, the land use determinations between the City and County are generally compatible. The land uses identified for the area approved by the City of Fontana during its General Plan Update require a broad range of municipal services which can be effectively and efficiently provided by the City. In addition, it should be noted that once annexed, pursuant to the provision of GC§ 56375(e), no change can be made to the General Plan or the Zoning within the reorganization area that is not in conformance with the pre-zoning determinations for a period of two (2) years. The law allows for a change if the City Council makes the finding, at a public hearing, that a substantial change has occurred in circumstances that necessitates a departure from the pre-zoning outlined in the application made to the Commission.

SERVICE ISSUES AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. Current County service providers within the area include the Central Valley Fire Protection District (fire protection/paramedics), County Service Area SL-1 (streetlighting entity), County Service Area 70 (multi-function entity primarily utilized to fund fire administration), and CSA 70 P-9 (Area of Tract 15581 for streetlighting and park and recreation services). In addition, the Fontana Water Company (private water company) provides retail water service to the area, the Inland Empire Utilities Agency overlays the area to provide for wastewater treatment services and the Metropolitan Water District of Southern California overlays the area as the State Water Contractor.

The City of Fontana has outlined in its Plan for Services (included in Attachment #2) that through this reorganization it proposes to extend its services for legislative and administrative functions, land use planning, law enforcement, park and recreation, road services, streetlighting, etc. The City's Plan for Service includes a Fiscal Analysis which indicates that the property tax revenues anticipated to be received, sales tax revenues, utility tax on commercial properties, developer fees, and other assessment districts within the City are sufficient to fund the delivery of their services. Highlights of the Plan include the following:

- The City of Fontana provides for the sewage collection system within its boundaries, while the treatment of wastewater is the responsibility of the Inland Empire Utilities Agency. Sewage collection services are currently

available from infrastructure traversing some of the annexation study area with several out-of-agency service contracts for sewer service existing within the boundaries, including the 26 lots within Tract 15581.

- Water service is currently provided by the Fontana Water Company, a private water company regulated by the Public Utilities Commission. No change will occur for this service provider on the basis of this reorganization.
- Law enforcement responsibilities will shift from the County Sheriff's Department operating out of the substation located at the corner of Arrow Blvd. and Alder Avenue within the City of Fontana. The City has indicated that there will be no major impact to the City of Fontana Police Department through this reorganization. The financing of this service will be through the ad valorem property tax received by the City from this area.
- There is no mandatory requirement for collection of refuse and recycling of solid waste disposal within the reorganization area. Solid Waste services are currently provided within the City of Fontana by Burrtec Waste Industries. The residential rate in the City is \$19.95 per month for up to four multi-family dwelling units. Commercial service account fees vary and are based on container size and disposal frequency. Refuse and recycling service is billed on a quarterly basis by the franchised hauler and all service is self-supporting on a user fee basis.
- Park and recreation services are provided through the City of Fontana and are funded through user fees and the City General Fund. At the time that Tract 15581 was approved for development in 1993, the project owner was required to pay a partial park and recreation development fee to the City of Fontana of \$1,200 per unit as a condition of the receipt of City sewer service to the tract.
- Fire protection and paramedic services are currently provided by Central Valley Fire Protection District and no change will occur to this service provider through the reorganization.

From most standards of review, this is a very straightforward and logical extension of service delivery by the City of Fontana. As required by Commission policy and State law, the Plan for Service submitted by the City of Fontana shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

The only complication in the review process for this application has related to the proposed dissolution of CSA 70 P-9 and the transfer of its primary asset, the pocket park at the end of the Chesebro Court cul-de-sac. This pocket park has

been a nuisance to the neighborhood, the County, and local law enforcement, attracting what have been described as illicit late night activities. The residents of the Tract contacted the Supervisor's office seeking to remove the park due to the problems it brought to the neighborhood. However, this request proved daunting since the park was required as a condition of approval for the Tract to develop with 5,800 square foot lots. All residential development rights for the park had been transferred to the remaining 25 lots within the development.

When LAFCO staff expanded the consideration of LAFCO 2968 to include the dissolution of CSA 70 P-9 as a function of the reorganization, discussions began regarding the disposition of the district and the park site itself. Through several meetings with City staff, Special Districts Department staff, Special Counsel and LAFCO staff a process was developed to allow for the following:

- Abandonment of the park by the County allowing for the transfer of the property to the City unencumbered as a park;
- The transfer of all the assets and liabilities for CSA 70 P-9 including the responsibility for streetlights and maintenance of the entrance of the tract;
- The determination that upon acquisition, the City of Fontana would declare the park site surplus and sell the park parcel for use as a residential property as it complies with the minimum lot sizes for the City's pre-zoning of the area;
- The requirement that the City maintain the funds generated by the sale of the property and the monies transferred from existing CSA 70 P-9 accounts as a separate fund to support services within the boundaries of Tract 15581.

Through this mechanism the services to be provided to the residents of Tract 15581 will not be affected by this change and the park will be eliminated as a nuisance. In addition, the current \$394 per year charge placed upon the tax bills of the landowners within CSA 70 P-9 will be eliminated. Staff's recommended conditions of approval address these issues for transfer of CSA 70 P-9 to the City of Fontana as the successor agency.

ENVIRONMENTAL CONSIDERATIONS:

The City of Fontana prepared a Final EIR (FEIR) for its General Plan Update and an Addendum to the FEIR (for the Fontana Development Code Update) which addressed the pre-zoning of its sphere of influence, copies of these documents were provided to Commissioners at the November 2004 hearing and to new Commissioners upon their appointment. The City's environmental assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson

of Tom Dodson and Associates. Mr. Dodson has determined that the City documents are adequate for Commission use. In addition, Mr. Dodson has prepared an Addendum to the City's environmental documents to address the dissolution of CSA 70 P-9. Attachment #4 to this report includes the letter presented by Mr. Dodson outlining his recommendations, the Addendum prepared for the dissolution for CSA 70 P-9, and a Draft Candidate Findings of Fact and Statement of Overriding Considerations.

Mr. Dodson has indicated that the necessary environmental actions to be taken by the Commission, as a responsible agency under CEQA, are as follows:

- Determine that the certified FEIR and Addendum to the FEIR (for the Fontana Development Code Update) adopted by the City of Fontana for the Fontana General Plan Update and the pre-zoning of its sphere of influence, have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
- Determine that the Addendum to the FEIR prepared by the Commission's Environmental Consultant to address the dissolution of CSA 70 P-9 has been independently reviewed and considered by the Commission and its staff.
- Determine that the FEIR and the Addendums to the FEIR are adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2968;
- Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; and that the mitigation measures identified in the City's environmental documents are the responsibility of the City and others, not the Commission;
- Adopt the Findings of Fact and Statement of Overriding Considerations as presented by the Commission's Environmental Consultant, attached to the staff report; and,
- Direct the Clerk to file the Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.

CONCLUSION:

Therefore, in compliance with directives of State law and Commission policies, it is staff's position that this reorganization is a very straightforward item of consideration and should be supported. As outlined in the staff report, the

reorganization provides for a logical service boundary, it provides for the elimination of the problem pocket park within the Chesebro Court neighborhood, along with the removal of the special assessment tax burden for maintenance of the park, and it provides for a coordinated land use approach along the Foothill Blvd. corridor following the relinquishment of responsibility for this roadway to the City of Fontana by CalTrans. For these reasons and those outlined throughout the staff report, the staff supports the approval of LAFCO 2968.

FINDINGS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/ reorganization proposal:

1. The County Registrar of Voters Office has determined that the study area is legally inhabited, containing 181 registered voters, as of March 4, 2005.
2. The County Assessor has determined that the total assessed value of land and improvements within the study area is \$21,684,098 (land value is \$8,582,100, and improvement value is \$13,101,998). Pursuant to the provisions of Government Code Section 56126, the County Assessor was requested to assign values to the public lands within the annexation site for protest purposes only. The values for these publicly held lands are listed separately as shown below for the individual parcels:

LANDOWNER NAME	ASSESSOR PARCEL NUMBER	LAND VALUES FOR PROTEST PURPOSES
San Bernardino County Flood Control District	0229-051-01	\$12,789
CSA 70 P-9 (park)	0230-261-26	\$105,000
Fontana Unified School District	0230-041-08	\$1,455,000
	0230-041-09	\$1,146,000
	0230-041-10	\$70,000
	0230-041-11	\$65,000
TOTAL FONTANA USD		\$2,736,000
TOTAL PUBLIC LANDS		\$2,853,789

3. The area is within the sphere of influence assigned the City of Fontana.

4. Commission review of this proposal has been advertised in *The Sun*, a 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.
5. LAFCO staff has provided individual notice to the landowners and registered voters within the annexation area (277) and to landowners and voters surrounding the study area (3,891) in accordance with State law and adopted Commission policies. To date, no written comments or protests to this proposal have been received from area landowners or registered voters.
6. The City of Fontana has pre-zoned the study area for the following land uses: Community Commercial (C-C) which permits a range of retailing, wholesaling, and service activities; Single Family Residential (R-SF) which permits 2.1 to 5 dwelling units per acre; Open Space (O-S) which permits quarries, flood control channels, groundwater percolation basins and agriculture; and Public Facilities (P-PF) which permits libraries, post offices, neighborhood center, and similar facilities. In addition, the majority of the reorganization area is overlaid with a "Boulevard Overlay" District within the City General Plan. 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.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the City of Fontana's FEIR, Addendum to the FEIR and Statement of Overriding Considerations prepared for the City of Fontana General Plan Update and pre-zoning of its sphere of influence. Mr. Dodson has prepared an Addendum to the City's FEIR addressing the expansion of the proposal to include the dissolution of CSA 70 P-9. Mr. Dodson has determined that these documents taken together are adequate for the Commission's review of the proposed reorganization as a responsible agency. Copies of the City's environmental documents were presented to Commission members at the November 17, 2004 hearing and were provided to new Commission members upon their selection. The necessary actions to be taken by the Commission, as a responsible agency, are outlined in the narrative portion of this report.
8. The area in question is presently served by the following local agencies:

County of San Bernardino
Metropolitan Water District of Southern California
Inland Empire West Resource Conservation District
Inland Empire Utilities Agency and its Improvement District C
Central Valley Fire Protection District
County Service Area SL-1 (streetlighting)

County Service Area 70 (multi-function unincorporated area
Countywide)
County Service Area 70 Improvement Zone P-9 (area of Tract 15581
for streetlighting and park and recreation services)

Detachment of CSA SL-1 and CSA 70 will automatically occur upon successful completion of this proposal as required by Government Code Section 25210.90. Dissolution of CSA 70 P-9 will occur upon successful completion of the reorganization as a condition of approval. The transfer of streetlight responsibilities of CSA SL-1 and CSA 70 P-9 are a condition of approval. None of the other agencies are affected by this proposal as they are regional in nature.

9. Upon reorganization, the City will extend their services as required by the progression of development. The City of Fontana has submitted a plan for the extension of municipal services to the study area 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, utility tax rates, and fees for service. This plan is attached for Commission review and indicates that the City can, at a minimum, maintain the level of service delivery and can improve the level and range of selected services currently available in the area.
10. The reorganization proposal is consistent with State law and complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
11. The developing portion of the study area can benefit from the availability and extension of municipal services from the City of Fontana.
12. This proposal will not assist the City's ability to achieve its fair share of the regional housing needs as there is no residential component to the land uses assigned vacant lands within the area.
13. The County of San Bernardino and the City of Fontana have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this annexation. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.

14. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

Attachments:

1. Vicinity and Location Maps of Reorganization Area
2. City Application and Plan for Services
3. County Board of Supervisors Actions Related to the Abandonment of the Park within CSA 70 P-9 and Formation Documents for CSA 70 P-9
4. Response from Tom Dodson and Associates, Addendum to FEIR Related to Dissolution of CSA 70 P-9 and Candidate Findings of Fact and Statement of Overriding Considerations
5. Draft Resolution No. 2869