

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

175 West Fifth Street, Second Floor, San Bernardino, CA 92415-0490
• (909) 387-5866 • FAX (909) 387-5871
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: JUNE 4, 2004
FROM: SAMUEL MARTINEZ, LAFCO Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7 – LAFCO 2957: Reorganization to Include City of Upland Annexation No. 58 and Detachment from Monte Vista Fire Protection District (Ninth Street Island)

INITIATED BY:

City Council Resolution, City of Upland

RECOMMENDATION:

1. Adopt the statutory exemption that has been recommended for this proposal, and direct the Clerk to file a Notice of Exemption within five (5) days of this action;
2. Approve LAFCO 2957: Reorganization to Include City of Upland Annexation No. 58 as an island annexation, as defined in Government Section 56375.3; and Detachment from Monte Vista Fire Protection District;
3. Waive the protest proceedings, as authorized by Government Code Section 56375.3; and,
4. Adopt LAFCO Resolution #2822 setting forth the Commission's findings and determinations concerning this proposal.

BACKGROUND:

LAFCO 2957 is a proposed annexation of an unincorporated island territory located in the southern portion of the City of Upland's sphere of influence, with concurrent detachment from the Monte Vista Fire Protection District (FPD). The

reorganization, as initiated by the City (commonly known as the “9th Street Island”) includes a total of 43.44 acres generally located north of the Atchison Topeka and Santa Fe Railroad, south of Ninth Street (including parcels immediately adjacent to the north of Ninth Street), between Central Avenue on the west and Benson Avenue on the east. Location and vicinity maps are included as Attachment #1 to this report.

In staff’s view, this proposal is essentially a ministerial action for the Commission. Government Code Sections 56375 and 56375.3 require the Commission to approve the annexation of island territory if several basic findings are made concerning the size of the island, the configuration of city boundaries, the lack of prime agricultural land within the island area, the presence of development in the area, and the ability of the study area to benefit from the use of municipal services from the City. Copies of these Code Sections are included for Commission review as Attachment #2.

If the Commission makes the statutory findings for LAFCO 2957, as outlined below related to island annexations, then State law requires that the Commission approve this annexation and waive the protest proceedings, as authorized by Government Code Section 56375.3.

The City of Upland has pre-zoned the area to Highway Commercial (CH) and Light Industrial (ML). These pre-zone designations were determined through the City of Upland’s consideration of PZC-30A (Ordinance No. 1277). The area is totally built-out and the current County land use designation for this area is Community Industrial (IC). Thus, the land use determinations for the City are generally compatible with the current County designation.

The City of Upland has submitted a plan for municipal services as required by law, and the plan is attached to this report for Commission review as Attachment #3. In general, the Plan identifies the following:

- Sewage collection services are available in the annexation area. However, much of the area for annexation is still on septic systems. The existing commercial and residential users in the unincorporated area, currently connected to the City’s sewer system, pay a premium rate for such service. Upon annexation, the monthly sewage charge will fall to the standard in-City rate, an approximate one-third reduction. For new development, sewer facilities will be extended at property owner’s expense.

- Water service is currently provided by the City of Upland to the properties within the annexation area. The only change anticipated is that through annexation, the monthly charges will be cut by one-half.
- Fire protection and paramedic services are currently provided by the Montclair Fire Department and would be replaced by the City of Upland Fire Department. The City of Upland believes that the increase in response time by one minute is not excessively detrimental to the area and that the proposed annexation is still beneficial to the existing island with the improvement of the overall service levels.
- Law enforcement will shift from the County Sheriff's Department, which operates out of the Chino Hills substation (7.5 miles from the annexation area), to the City of Upland. The City indicates that its police department will need additional officers to increase law enforcement measures. The financing of this augmented service will be through the ad valorem property tax received by the City.
- Refuse collection is currently provided by Waste Management. The City provider of this service is Burrtec Waste Industries. State law requires that the existing refuse provider be allowed to phase out the service, for a period not to exceed five years.
- The City of Upland will provide street sweeping services within the annexation area on a bi-weekly basis.
- Library service will be provided by the City of Upland Public Library located within the City Hall complex.
- The only financial effect to the existing and future business owners within the area of consideration would be the imposition of the City's business license and sign registration requirements.

As required by Commission policy and State law, the Plan for Services submitted by the City of Upland shows that the extension of its services will maintain, and/or exceed, current service levels provided through the County.

Staff has provided nearly 1,230 notices to landowners and registered voters within and surrounding the annexation areas, notifying them of the Commission's consideration. To date, staff has not received any written protests on the proposal; however, this finding will be updated at the hearing.

Concerns have been expressed by the County Fire Agency, on behalf of CSA 70 and Monte Vista FPD, regarding the revenue loss due to the detachment of this territory. Also, the City of Montclair Fire Department responded to clarify the City of Upland’s “Plan for Service”. The City of Montclair has noted that the Montclair Fire Department/Monte Vista FPD provides fire, rescue, and other fire protection services for the area being annexed – not the San Bernardino County Fire Department Station #12. The City has acknowledged this clarification and has revised the “Plan for Service” to reflect the correction. Both concerns are included for the Commission’s review as Attachment #4.

While taking note of these concerns, it is staff’s view that the Commission must approve the annexation issue presented by LAFCO 2957 based upon the following findings:

MANDATORY ISLAND ANNEXATION FINDINGS:

The following findings are required by Government Code Section 56375.3 for island annexations:

- The study area is less than 75 acres, and consists of the entire island of unincorporated territory.
- The study area is surrounded by the City of Upland and an adjacent city (City of Montclair), and is within the City of Upland’s sphere of influence.
- The study area is substantially developed or developing, based on findings that there is the availability of public services, there is the presence of public improvement in the area, and there is physical improvement on many, if not most, of the properties.
- There is no prime agricultural land within the study area.
- The study area has benefited, and will benefit, from the availability of municipal services from the City of Upland.

Staff suggests that, in its view, these findings are clear; therefore, the Commission is required by Government Code Section 56375(a) to approve this reorganization and waive the protest proceedings.

FINDINGS:

The following findings are required to be provided by Commission policy and Government Code Section 56668 for all proposals considered:

1. The Registrar of Voters has determined that the study area is legally inhabited, containing 51 registered voters within the area.
2. The County Assessor has determined that the value of land and improvements within the reorganization area is \$15,101,430 (\$5,142,170 -- value of land; \$9,959,260 -- value of improvements).
3. Legal advertisement of the Commission's consideration has been provided through publications in the *Sun* and the *Inland Valley Daily Bulletin*, newspapers of general circulation in the area.
4. Individual notice has been provided to registered voters and landowners within the reorganization area, and to all voters and landowners located within roughly 1,350 feet of the exterior boundaries of the reorganization site. Approximately 1,230 individual notices have been provided for this hearing.

Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations. To date, no protest has been received.

5. The City of Upland has pre-zoned the study area for Highway Commercial (CH) and Light Industrial (ML) uses. These zoning designations conform to the current Commercial/Industrial Special Purpose (C/I-S) designation for the area as reflected on the City of Upland's General Plan map. Both 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 Code Section 56375(e), the zoning designation shall remain in effect for two years following annexation unless specific actions are taken by the City Council.

6. The Commission's environmental consultant, Tom Dodson and Associates, has indicated that the review of this island annexation is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of this application is a ministerial action that is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15268. A copy of Mr. Dodson's report is included for the Commission's review as Attachment #5.

7. The area in question is presently served by the following local agencies:

County of San Bernardino
Monte Vista Fire Protection District
Metropolitan Water District of Southern California
Chino Basin Water Conservation District
Inland Empire West Resource Conservation District
Inland Empire Utilities Agency and its Improvement District C
County Service Area 70 (multi-function unincorporated area
Countywide)

The Monte Vista Fire Protection District will be detached from the study area as a function of this reorganization. CSA 70 will also be detached from the area upon successful completion of the reorganization pursuant to the provisions of Government Code Section 25210.90. No other agencies will be affected by this proposal.

8. The City of Upland has submitted a “Plan for Service” as required by law which 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. (See Attachment #3).
9. The study area can benefit from the availability and extension of municipal services from the City of Upland.
10. 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.
11. This proposal will not assist in the City’s ability to achieve its fair share of the regional housing needs since the current/proposed land use designations do not permit any new housing development. Also, many of the existing residential structures have been converted to either mixed-use residential, mixed-use non-residential and/or commercial uses.
12. The County of San Bernardino and the City of Upland have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirement of Section 99 of the Revenue and Taxation Code.
13. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor’s Office.

CONCLUSION:

It is the staff's recommendation that LAFCO 2957 is essentially a ministerial action. The Commission is required by Government Code Section 56375(a) to approve this proposal if it makes the mandatory findings outlined in Section 56375.3. We believe those findings are easily made in this case, as follows:

- The study area comprises a total of 43.44 acres, which makes the island less than the 75 acre threshold;
- The study area is surrounded by the City of Upland (on the north and east) and the adjacent City of Montclair (on the west and south); and, the study area is wholly within the City of Upland's sphere of influence;
- The area is substantially developed or developing;
- The area does not contain any prime agricultural land; and
- The area can benefit from the availability of municipal services from the City of Upland.

If the Commission concurs with these staff findings, then it is required to approve this proposal and waive the protest hearing as part of its approval of this application, regardless of any protest that might be submitted for this item.

Attachments:

1. Map of Annexation Area
2. Government Code Sections 56375 and 56375.3
3. City of Upland's Application and Plan for Service
4. Letters of Concern
5. Environmental Review Documents
6. Draft Resolution #2822