

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

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DATE: SEPTEMBER 10, 2002

FROM: JAMES M. RODDY, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #6: Request for Reconsideration of LAFCO #2888--Reorganization to Include Annexation to the City of Hesperia, the Hesperia Fire Protection District, the Hesperia Water District, and the Hesperia Recreation and Park District (Summit Valley Ranch)

PETITIONERS FOR RECONSIDERATION:

Various landowners in the Summit Valley area

RECOMMENDATION:

Deny the requests for reconsideration

BACKGROUND INFORMATION:

The Commission will recall that on July 17, 2002, LAFCO #2888, involving an annexation of 1,111 acres in the Summit Valley area to the City of Hesperia and related agencies was considered and approved. The original staff report for that hearing, along with related documents including city/district plans for service, and a "statement of facts, findings, and overriding considerations" prepared for environmental review requirements are attached for Commission review to refresh the members' memory of the scope of this review.

On August 22, 2002, staff conducted a protest hearing to consider the value of written protests submitted by landowners within the annexation area, and only three valid written protests were submitted representing a very minor percentage of overall assessed value.

Prior to that hearing, however, staff received requests for reconsideration from a variety of landowners within the larger Summit Valley area.

Those requests are attached to this report for Commission consideration. It should be noted that state law allows only landowners within an annexation area to submit a binding written protest to that annexation; however, state law allows any person, whether owning land within a proposal area or not, to submit a request for reconsideration of a Commission determination.

Upon receipt of a legally filed request for reconsideration, LAFCO staff, acting in its capacity as the “conducting authority” for the protest hearing, was required to hold in abeyance any further proceedings on LAFCO #2888 until the Commission concludes its reconsideration hearing. If the Commission determines that the request for reconsideration should not be granted, staff will take action on September 25 to approve and file the proposal based on insufficient written protest.

Before turning to the specific reconsideration issues, one other item concerning state law should be noted and emphasized. Government Code Section 56895(a), which governs reconsideration hearings, provides the following:

“The request [for reconsideration] shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously, or applicable new law, are claimed to warrant the reconsideration.”

The specific modification being requested, of course, is that the Commission rescind its resolution approving this item and either deny the annexation or continue this matter for further review. Thus, the only issue before this Commission, then, is the question of whether the requests for reconsideration include new information which could not have been available and considered at the July 17 hearing.

RECONSIDERATION ISSUES:

As the Commission will recognize from review of the attached letters and petitions, the requests for reconsideration present a wide variety of issues and assertions. In very general terms, however, the issues for reconsideration fall into concerns related to environmental review, hearing notification, and Hesperia service issues.

Environmental Review. Most of the requests for reconsideration raise concerns about the interim rock quarry and the possible effects that

operation might have on air quality, water quality, and traffic in the valley.

As the Commission will recall, copies of the City's environmental documentation, including an extensive environmental impact report were provided to each member and alternate member of the Commission roughly a month prior to the July hearing. In addition, the Commission's environmental consultant, Tom Dodson and Associates, provided an extensive statement of "facts, findings, and overriding considerations" which are required by state law when an environmental review identifies significant adverse impacts which cannot be mitigated. All of these documents are part of the record of these proceedings and were considered at the July 17 hearing.

Tom Dodson has submitted a written response to the environmental questions which is attached for Commission review, and includes a discussion of the Commission's role as a "responsible agency" in reviewing the documents prepared by the City of Hesperia as the "lead agency" under the California Environmental Quality Act. In addition, the City of Hesperia has prepared a response to the environmental issues raised, which is attached for Commission review. This response outlines the environmental documents that have been prepared and distributed, the series of hearings that were held by the planning commission and city council, and the notifications that were provided in connection that process.

It should also be noted that the Commission is not a land use planning agency. In fact, the Commission is specifically prohibited from requiring conditions of land use decisions or subdivision requirements. However unpopular the decision to allow a rock quarry operation on an interim basis might be, the Commission essentially has no authority in this arena.

With all the documentation that was provided to the Commission prior to the hearing, it seems to staff that the petitioners for reconsideration have not provided any new information which would justify re-opening the Summit Valley annexation review.

Service Issues. Many of the requests for reconsideration suggest that the City of Hesperia and related special districts cannot adequately serve the annexation area. Some of the requests also suggest that the city does not have the expertise to oversee operation of the interim rock quarry operation and express misgivings concerning the city's enforcement of

various requirements in the operation of that quarry. Finally, some of the requests specifically cite concerns about the ability of the Hesperia Fire Protection District (a city subsidiary district) to provide fire protection services in the area after annexation.

The Commission's policy concerning the review of service plans essentially states that the annexing agencies must be able to show that the level and range of services to be provided meets or exceeds the level and range of services available in the area prior to annexation. The City of Hesperia, the Hesperia Water District, the Hesperia Fire Protection District, and the Hesperia Recreation and Park District all submitted service plans which complied with that policy requirement and the requirements of state law.

Specifically as to fire protection issues, the Commission will recall information in the initial staff report and testimony at the hearing that the Hesperia Fire Protection District and the County Fire Department had reached an agreement for continuation of County services in the area, at least on an interim basis pending further development in the area. In essence, both agencies agreed that the level and range of fire protection services will not be adversely affected by this proposal and may be improved through interagency agreements that have been reached.

Again, staff asserts that the petitioners for reconsideration have not presented any significant new information related to service issues that would justify reconsideration of this proposal.

Notification. Some of the petitioners for reconsideration express concern that they were not adequately notified of these proceedings.

The City of Hesperia, in its response, provides a summary of all the notices that it provided throughout its environmental review and land use study processes. It also provides a summary of all of the public hearings held by the city council and its planning commission in consideration of this matter.

As for the LAFCO hearing notices, staff provided notices to 20 landowners and six registered voters within the annexation area, and we provided notices to 70 landowners and 17 registered voters outside the annexation area in conformance with state law and local Commission policy. In addition, 46 individuals and agencies received copies of hearing notices and staff reports, plus 53 notices were provided through

the standard mailing list used by LAFCO staff in preparation for the initial hearing. Finally, it should be noted that this same notification process was followed for this reconsideration hearing.

Thus, staff finds that concerns expressed about inadequate notification are without foundation.

CONCLUSION:

If the Commission finds that the petitioners have presented substantial new information, then it should determine that these proceedings should be re-opened for further review.

Staff finds no basis, however, for re-opening these proceedings. Staff believes that all of the issues raised by the petitioners were fully considered at the July 17 hearing, and the record shows that proper notification in conformance with state law and local policy were provided.

Accordingly, staff recommends denial of this request for reconsideration.

Attachments:

1. Requests for Reconsideration Filed by Various Landowners
2. Response from the City of Hesperia
3. Response from Tom Dodson and Associates
4. [Original Staff Report for the July 17, 2002 Hearing](#)