

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

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DATE: September 6, 2002
FROM: KATHLEEN ROLLINGS-McDONALD, Deputy Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7 – LAFCO 2889/2890 – Reorganization between Cities of Highland and San Bernardino – Third Street (See full titles below)

FULL PROPOSAL TITLES:

LAFCO 2889 – Sphere of Influence Review for City of San Bernardino (Expansions and Reduction) and City of Highland (Expansion and Reductions) AND,

LAFCO 2890 – Reorganization to include Annexations to and Detachments from the City of San Bernardino and the City of Highland

INITIATED BY:

Council Resolutions, City of Highland and City of San Bernardino

RECOMMENDATION:

1. Take the following actions related to the environmental assessment for the projects:
 - a. Certify that the sphere of influence expansions for and annexations to the City of San Bernardino are statutorily exempt from environmental review; and,
 - b. Certify the Commission has reviewed and considered the environmental assessment and Negative Declaration prepared by the City of Highland for a General Plan Amendment (GPA 02-001) and Pre-Zone (ZC 02-002) on 3.09 acres and found them to be adequate for Commission use as a Responsible Agency. Determine that the Commission does not intend to

adopt alternatives for this project; that there are no mitigation measures included in the City of Highland's environmental documents; and,

- c. Direct the Clerk to file the Notice of Determination for the territory to be included within the City of Highland and to file a Notice of Exemption for the territory to be included within the City of San Bernardino within five working days.
2. Approve LAFCO 2889 – Minor Sphere of Influence Changes for the Cities of Highland and San Bernardino, with the finding that a service review (as defined by Government Code Section 56430) is not required for these sphere of influence changes as they are determined to be "minor" as such is defined in the Commission's Policy #33, adopted February 20, 2002.
3. Adopt LAFCO Resolution No. 2749 setting forth the Commission's conditions, findings, and determinations on the sphere of influence changes.
4. Approve LAFCO 2890 – Reorganization to include Annexations to and Detachments from the Cities of Highland and San Bernardino as presented with the condition that ownership of Assessor Parcel Number 0279-192-04-0000 is to be transferred to the City of Highland from the County of San Bernardino upon completion of this proposal.
5. Adopt LAFCO Resolution No. 2750 setting forth the Commission's terms, conditions, findings and determinations.

BACKGROUND:

LAFCO 2889 and 2890 are a set of proposed changes to transfer territory along Third Street between the Cities of San Bernardino and Highland. The purpose of the proposal is to straighten a portion of the irregular boundaries between the Cities in the area adjacent to the San Bernardino International Airport (former Norton Air Force Base). The sphere of influence and reorganization area is generally located along the north side of Third Street, between Tippecanoe and Shirley Avenues. Maps showing the vicinity of the changes and the actual areas are included in this report as Attachment #1. Philosophically, these changes are straightforward, non-controversial, and wholeheartedly supported by staff. However, technically, these exchanges are complicated and paperwork intensive. The changes proposed are defined as follows:

1. The areas to be removed from the City of Highland's sphere and placed into the City of San Bernardino's sphere (Parcels 1 and 2) encompass 3.35 +/- acres. These areas are also proposed for annexation to the City of San Bernardino with concurrent detachment from the City of Highland. The area is generally

described as the southerly right-of-way that includes the east bound lane of Third Street, between Tippecanoe Avenue and 230 feet east of Shirley Avenue.

2. The area to be removed from the City of San Bernardino's sphere and placed into the City of Highland's sphere (Parcel 3) encompasses 3.09 +/- acres. This area is also proposed for annexation to the City of Highland with concurrent detachment from the City of San Bernardino. The area is generally bordered by the centerline of Court Street on the north, the centerline of Del Rosa Avenue on the east, the centerline of Third Street on the south, and the centerline of Del Rosa Drive on the west.

The existing land use within the area proposed to be transferred to the City of Highland includes a mix of public use (water well site for the East Valley Water District and roads), commercial, vacant, and non-conforming residential uses. The existing use of the lands proposed for transfer to the City of San Bernardino are the eastbound lanes of Third Street fronting the San Bernardino International Airport including one of the main entrances to that facility. Surrounding land uses are also mixed, which include: commercial and residential to the east (within the City of Highland), to the south is the San Bernardino International Airport and its anticipated expanded commercial/industrial uses (within the City of San Bernardino), to the west is a mix of commercial and residential uses (predominantly in the City of Highland), and to the north are residential uses (within the City of Highland).

The City of Highland has conducted the required pre-zoning for the area proposed for inclusion within its boundaries. The General Plan Amendment assigns the area a land use designation of Business Park (BP) which allows, subject to General Plan policies and ordinances, light manufacturing, wholesaling, and warehousing conducted within an enclosed building, administrative and professional uses, business support uses, eating and drinking establishments, personal services, and retail sales of durable goods. Existing City of San Bernardino zoning for the area is General Commercial. The roadway areas to be included within the City of San Bernardino will be addressed through development of industrial projects southerly of Third Street, a part of the Inland Valley Development Agency Specific Plan for the reuse of the former Norton Air Force Base.

The Cities of Highland and San Bernardino have indicated in their resolutions, jointly initiating the changes, their rationale which is:

1. Assist in the public understanding of the jurisdictional boundaries of the two cities.
2. Improve essential services such as street maintenance and repair, public safety and fire protection and the coordination of property development standards by dividing the jurisdictions at the centerline of Third Street and placing

responsibility for the public right-of-ways of Del Rosa Avenue, Del Rosa Drive and Court Street wholly within the City of Highland.

3. Allow the City of San Bernardino to address the development of the San Bernardino International Airport by reviewing access to Third Street and any development projects that desire access to that roadway from within the Airport area.

The staff supports the changes identified as they will realign the boundaries of the Cities to provide for a more efficient and serviceable boundary for each and will provide the Cities with the ability to address roadway concerns within the development process within their respective jurisdictions, all of which promotes the purposes of LAFCO. In addition, it should be noted that this set of proposals is only possible due to the cooperation between the Cities to exchange territory. Objection by either City would require termination of the application as a function of law. Therefore, staff would like to commend the Cities for their cooperation and extend its hope that it bodes well for future coordinated efforts.

SPHERE OF INFLUENCE CHANGES (LAFCO 2889):

On February 20, 2002, the Commission adopted its implementing policies for the changes within Cortese-Knox-Hertzberg related to service reviews (Government Code Section 56430) and sphere of influence considerations (Government Code Section 56425). One element of this consideration was the adoption of a policy related to “minor” sphere change criteria that would eliminate the requirement for a service review with a sphere adjustment. This policy language indicates that if “the change was less than 3% of the total agency sphere” and “none of the other overlaying agencies objected”, no service review would be required.

In the present case, each of the sphere changes proposed would qualify as a minor amendment in regard to size for the respective City, as combined they total approximately 6 acres, and no objection to these actions has been received from any agency overlaying the site. Therefore, the staff is recommending that the Commission make the findings and determine that the sphere of influence review can be processed without preparation of a service review. The draft resolution presented as Attachment #5 outlines this determination.

Factors of Consideration:

In every sphere of influence consideration, the Commission is required to review four factors as defined by Government Code Section 56425. Those factors are outlined in the joint application submitted by the Cities and are summarized below:

Present and Planned Land Uses within the Area:

Area proposed for inclusion within Highland sphere: As outlined above, the anticipated land uses for the area to be detached from the City of San Bernardino and included within the City of Highland consists of a mix of commercial, light industrial and nonconforming residential uses. The City of Highland has pre-zoned the area “BP” Business Park which is comparable to the existing City of San Bernardino zoning of Commercial General.

Areas proposed for inclusion within San Bernardino sphere: Areas will continue to comprise the eastbound lanes of Third Street from Tippecanoe Avenue to Shirley Avenue.

Present and Probable Need for Public Facilities and Services

Areas proposed for inclusion within San Bernardino sphere: The eastbound lanes of Third Street will be included within the law enforcement, traffic control patterns of the City of San Bernardino.

Area proposed for inclusion within Highland sphere: The area will not require the extension of any new public facilities to accommodate the existing land uses. The individual services to be provided have been addressed in the Cities’ response included in Attachment # 2. Additional information is included to clarify the water service issue for this area.

In reviewing the proposal with members of the County Environmental Health Services (EHS) staff, it was learned that the domestic water provider in the area proposed for inclusion within the City of Highland is the East Woods Farms Mutual Water Company. This small water company has experienced difficulties over the last few years and at the present time has no operating wells. The Company currently receives its domestic water supply from the East Valley Water District through a system intertie for distribution to its customers. EHS staff indicated that the possible take over of the system by the East Valley Water District would require extensive system improvements as well as infrastructure payments that the area cannot afford. The sphere of influence change (and the companion reorganization) will place the service area of this Water Company wholly within the City of Highland. The Company’s service area is generally bounded by Tippecanoe on the west, Sixth Street on the north, Del Rosa Avenue on the east, and Third Street on the south. This change would facilitate any future system improvements, etc. since it would be coordinated through one jurisdiction, rather than multiple.

Present Capacity and Adequacy of Public Services

The Cities of Highland and San Bernardino both provide a full range of municipal services. These services will be available to the respective areas in the same manner as prior to the sphere of influence change/reorganization.

Social and/or Economic Communities of Interest:

At the time that the City of Highland incorporated, its boundary, to a great extent, followed the existing City of San Bernardino boundaries. This proposal will establish the boundary for the Cities of Highland and San Bernardino along the centerline of Third Street, in concert with the Commission's existing policy and practice.

ANNEXATIONS AND DETACHMENTS (LAFCO 2890):

The companion proposal, LAFCO 2890, will officially adjust the boundary between the two cities to the centerline of Third Street. The joint Plan for Service submitted indicates that there is not anticipated to be any financial impact upon transition of service. It is noted that the area being detached from the City of San Bernardino and annexed to the City of Highland will lose the obligation for payment of a utility tax (8% tax currently assessed within the City of San Bernardino), but will be included within the City of Highland's paramedic assessment, currently levied at \$19 per unit residential uses (if there is more than one unit on the property, each unit is assessed), \$38 per unit for commercial uses, and no charge for public buildings/properties. In addition, the territory will be included within the City of Highland's Consolidated Landscape and Lighting District which charges an annual assessment of \$28.86 for the first 198 feet of lot frontage and \$28.86 for each additional 100 lineal feet, or fraction thereof.

In processing the proposal for reorganization to allow for the exchange of territory, the staff has discovered a unique situation. There is an existing parcel, owned by the County of San Bernardino, which is the northbound lane of Del Rosa Drive, shown on the maps attached as Parcel Number 279-192-04, located at the corner of Del Rosa Drive and Court Street. This parcel should have been abandoned years ago, but was not discovered in 1975 when this area was annexed to the City of San Bernardino. In order to resolve this problem, a condition has been proposed for the reorganization requiring that the County transfer title to this parcel to the City of Highland upon completion of the reorganization. At that time, the City of Highland can process the necessary paperwork to abandon the parcel within the street. The draft resolution includes such a proposed condition.

FINDINGS:

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

1. The Registrar of Voters Office has determined that the study area (three areas combined) is legally uninhabited, containing 1 registered voter, as of May 21, 2002.
2. Through approval of the companion proposal, LAFCO 2889, the spheres of influence for the Cities of Highland and San Bernardino will reflect the anticipated changes.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area totals \$561,733 (\$0 within Area 1 (roadway), \$0 within Area 2 (roadway), and \$235,598 land and \$326,135 improvements within Area 3).
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation within the study areas.
5. The City of Highland has processed a General Plan Amendment and Zone Change for pre-zoning of the area to be annexed to their City. The land use designation assigned through this change is Business Park "BP" which allows for a range of commercial and light industrial uses subject to General Plan policies and ordinances. Pursuant to the provisions of Government Code Section 56375(e) this zoning designation shall remain in effect for a minimum two years following annexation unless specific actions are taken by the City Council.
6. The Commission's environmental consultant, Tom Dodson and Associates, has reviewed the City of Highland's Initial Study and Negative Declaration and determined that they are adequate for the Commission's review of the proposed annexations/detachments as a responsible agency. A copy of the City's Initial Study is attached for the Commission's use (Attachment #3).

The necessary actions to be taken by the Commission, as a responsible agency for this portion of the reorganization, include the following:

- a. Indicate that the Commission has reviewed and considered the environmental assessment, and Negative Declaration adopted by the City of Highland for General Plan Amendment and Pre-Zone of properties within the City of San Bernardino (GPA 02-001 and ZC 02-001).
- b. Determine that these environmental documents are adequate for the Commission's use in making its decision related to the sphere of influence changes and annexations/detachments, indicating that no alternatives, other than those reviewed by the City, are to be considered.

- c. 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.

The Commission will be the lead agency for the review of the sphere of influence expansions and annexations to the City of San Bernardino. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed the change proposed for the City of San Bernardino (inclusion of the east bound lane of Third Street) and determined that it is statutorily exempt from environmental review (See Attachment #4). Mr. Dodson's review indicates that the transfer of roadway properties will have no potential to cause any physical change in the environment. This area will be maintained as a through highway; therefore, it will not alter the existing environment in any way.

The necessary actions of the Commission as the lead agency are:

- a. Certify it has reviewed and determined that the change is statutorily exempt from environmental review; and,
 - b. Direct the Clerk to file the Notice of Exemption within five days.
7. The Cities have submitted a joint Plan for Service, as required by law and Commission policy (Attachment 2). This plan outlines that the respective City can maintain the level and range of services that are currently available to the study area. Upon annexation, the Cities will extend their services as required. The joint Plan for Service indicates that revenues are anticipated to be sufficient to provide the level of services identified through each City for such items as law enforcement, planning, street maintenance, etc. The Plan states that for the area to be annexed to the City of Highland, the level of service for fire protection will be adequate for current and future land uses through imposition of the City's fire protection assessment. Water service to the area being transferred from the City of San Bernardino to the City of Highland is a part of the East Woods Farms Mutual Water Company (currently providing water service within the area) and within the boundaries of the East Valley Water District (currently serving some of the parcels within the area for sanitary sewers) and this change will have no effect on that level of service delivery.
 8. The area in question is presently served by the following public agencies:

County of San Bernardino
City of Highland (portion of the area)
City of San Bernardino (portion of the area)
East Valley Water District

East Valley Resource Conservation District
San Bernardino Valley Water Conservation District
San Bernardino Valley Municipal Water District
Inland Valley Development Agency (Norton Reuse RDA – portion of the area)
Highland Redevelopment Project Area No. 1 (City of Highland RDA – portion of the area)

The properties are proposed for exchange between the Cities of Highland and San Bernardino. None of the other agencies will be affected by this proposal through an adjustment in their boundaries. However, as noted in the Factors of Consideration/Plan for Service presented by the Cities, the tax increment funding for the Inland Valley Development Agency from the developed area will need to be transferred to the City of Highland.

9. The reorganization proposal complies with Commission policies seeking to clarify and align city boundaries to provide for the most effective and efficient service delivery.
10. Comments from landowners and any affected local agency have been reviewed and considered by the Commission in making its determinations.
11. The reorganization study area can benefit from the availability of services from the respective City.
12. This proposal has no relationship to either City's ability to achieve its fair share of the regional housing needs. This finding is made due to the City of Highland land use designation as "Business Park" for its area of annexation and the roadway use for the City of San Bernardino's area of annexation. The existing non-conforming residential uses will not assist the City of Highland in its regional housing need.
13. The City of Highland and the City of San Bernardino have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this reorganization. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.
14. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

/krm

Attachments:

- 1 -- Location and Vicinity Maps

- 2 -- Joint City Application and Plan for Service
- 3 -- Tom Dodson and Associates Response and Copy of City of Highland Environmental Information
- 4 -- Tom Dodson and Associates Response for City of San Bernardino area
- 5 -- Draft Resolution No. 2749 for the sphere of influence changes
- 6 -- Draft Resolution No. 2750 for the reorganization