

4.a. 1/21/2010

TO: Local Agency Formation Commission
FROM: George J. Spiliotis, Executive Officer

SUBJECT: LAFCO 2008-18-2--REORGANIZATION TO INCLUDE INCORPORATION OF EASTVALE, CONCURRENT DETACHMENTS FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT AND DETACHMENT FROM THE JURUPA AREA RECREATION AND PARK DISTRICT

PRIOR AGENDAS/RELATED ACTIONS: Continued from October 22, 2009.

EXECUTIVE SUMMARY:

This report provides an update on recent activities that have occurred since the Commission continued this proposal in October. Although the fiscal position of the general fund is likely enhanced by a recent Board of Supervisors action, the concerns with the CFA expressed in the October staff report (attached) and the original recommendation for disapproval remain unchanged. If the Commission decides to approve this proposal, necessary findings, determinations, terms and conditions are provided.

RECENT EVENTS:

On October 20, 2009, the Board of Supervisors approved an agreement between the County and the Eastvale Incorporation Committee regarding mitigation of fiscal impacts to the County caused by incorporation (Revenue Neutrality). Beginning January 7th, additional discussions occurred between representatives from the County and the Incorporation Committee. These discussions have resulted in an amendment to the original agreement.

The amendment calls for additional payment to the County and an understanding that mitigation payments may be made from the future city's structural fire protection fund. The October Public Hearing Draft CFA reported operating surpluses in the Structural Fire Fund ranging from approximately \$1.3 million to \$2.7 through Year 8 of the analysis. As a new station comes on line in Year 9, the annual surplus is reduced to approximately \$700,000. The ability of the City to pay the County from restricted fire protection money would potentially relieve the City's General Fund of a sizeable burden, perhaps in excess of \$1 million annually beginning in Year 4, though at the time of this writing it has not been quantified. More specific information will be provided as it becomes available.

The October staff report outlined several concerns with the Comprehensive Fiscal Analysis prepared for this proposal. In light of

these concerns, staff could not recommend making a finding of fiscal feasibility as required by Section 56720(e). No changes have been made to the CFA since the October hearing. Despite the positive fiscal changes noted above, concerns with assumptions used in the analysis remain and the staff recommendation presented in October is unchanged.

STATUTORY REQUIREMENTS FOR APPROVAL: As noted in October, the Legislature has placed a higher standard of Commission review for approval of incorporations in comparison to other types of proposals. For example, and as noted earlier, the Commission must make a specific finding regarding fiscal viability. Furthermore, pursuant to Section 56803, if the Commission approves the incorporation it must accept or reject each of the findings and recommendations made in the Executive Officer's report and the Comprehensive Fiscal Analysis. If the Commission rejects a finding or recommendation, this Section requires findings to be made by the Commission that present the basis for any rejection.

If the Commission decides to approve this proposal, in addition to legally required findings noted above, there are numerous determinations, terms and conditions that must be incorporated into the Commission action. These are critical elements of the Commission's action that determine how the matter is set for election, the form of government of the new city, the transfer of taxes and assessments, mitigation payments to the County, the disposition of facilities and the first actions of the newly elected council. The Commission resolution ordering incorporation and the approved terms and conditions are referenced in the ballot question. Findings, determinations, terms and conditions are attached to this report and should be included as part of any Commission approval of this proposal. Please note a different effective date for incorporation is now applicable, October 1, 2010, due to the timing of the next available election date. Suggestions for findings supporting the rejection of staff recommendations and findings are included.

Respectfully submitted,

George J. Spiliotis
Executive Officer

REQUIRED ACTIONS FOR APPROVAL:

If the Commission approves the proposal, it must make findings pursuant to Government Code Section 56803 that present the basis for rejecting the staff recommendation. Suggested language for such findings is shown in *italics* in the attached. In addition, the Commission should take the following actions:

1. Approve LAFCO 2008-18-2-INCORPORATION OF EASTVALE AND CONCURRENT DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT as depicted in the Exhibit attached to the October staff report, subject to the terms and conditions attached to this report.
2. Make the findings and determinations attached to this report.
3. Pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act of 2000, order the reorganization subject to confirmation of the voters and request the Board of Supervisors to call an election on the subject reorganization, subject to the attached findings, determinations, terms and conditions.

FINDINGS AND DETERMINATIONS

Based on the entire record of the Commission's proceedings, the Commission hereby makes the following findings and determinations.

- a. Find the Commission, as lead agency pursuant to CEQA, has prepared an initial study on the proposed reorganization. Based upon the entire record before the Commission, including the initial study, the Commission finds there is no substantial evidence that the proposal will not have a significant effect on the environment. The Commission adopts a negative declaration and finds that the adoption of a negative declaration reflects the Commission's independent judgment and analysis as lead agency.
- b. Pursuant to Government Code Section 56720(a), find the reorganization including incorporation of the proposed City of Eastvale is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including but not limited to, the policies of Government Code Sections 56001, 56300, 56301 and 56377, and the policies of the Riverside County Local Agency Formation Commission.
- c. The Commission has reviewed the spheres of influence of affected local agencies and finds the reorganization is consistent with those spheres of influence.
- d. Find the Commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800.
- e. Find the Commission has reviewed the Executive Officer's staff report and recommendations prepared pursuant to Government Code Section 56665 and the testimony presented at its public hearings.
- f. Pursuant to Section 56803, the Commission accepts each of the findings and recommendations in the Executive Officer's report and the comprehensive fiscal analysis prepared pursuant to Government Code Section 56800, *with exceptions noted and supported by additional findings herein.*
- g. Find the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. *The Commission rejects the Executive Officer finding that the incorporation is not financially feasible based on the following findings.*

of the new city at the first municipal election held following the first full fiscal year of operation.

- l. Pursuant to Section 56815(c), determine that the amount of revenue transferring from the county to the new city is not substantially equal to the cost of services similarly transferred. Nevertheless, the negative fiscal impact shall be adequately mitigated by the terms of an agreement approved by the Riverside County Board of Supervisors on October 20, 2009, as subsequently amended on January 12, 2010, providing for mitigation payment from the City of Eastvale to the County over a specified period of time. Furthermore, such agreement is incorporated by reference in the terms and conditions adopted by this Commission.
- m. The name of the city shall be the City of Eastvale.
- n. The City shall be incorporated as a general law city.
- o. The City shall be governed by a five member city council elected at large.
- p. The City shall have the City Manager form of government with a five member city council elected at large at the same election as the incorporation question.
- q. The city council shall appoint a city manager, who shall appoint a city clerk and city treasurer.
- r. The question of incorporation, all related boundary changes, and all terms and conditions shall be presented as one question on the ballot and in accordance with Sections 57133 and 57134.
- s. Pursuant to Section 57118, the election shall be held within the entire territory proposed to be reorganized.
- t. Pursuant to Section 57116, the election to confirm the question of incorporation shall also present the question of whether members of the city council in future elections shall be elected by district or at large.
- u. Determine the proposed reorganization is legally inhabited.
- v. The reasons for the proposed reorganization include the following:
 - Increased local control and accountability for decisions regarding the community
 - Promote orderly government boundaries
 - Retain local revenues for use within the community

- Increase opportunities for residents to participate in civic and governmental activities.
- w. The regular county assessment roll shall be utilized.
- x. The affected territory will not be taxed for any existing bonded indebtedness of any agency whose boundaries are changed as a result of this reorganization. Any existing bonded indebtedness of the County or any other affected agency whose boundaries are not changed shall remain in effect.

TERMS AND CONDITIONS

- a. The effective date of the incorporation shall be October 1, 2011.
- b. The election and terms of office for members of the City Council shall be subject to Government Code Sections 57377-57379, inclusive.
- c. The disposition of public facilities, land and fees shall be subject to negotiation between the County of Riverside and the new City.
- d. Pursuant to Government Code Section 56815, the City shall be required to make payments in order to mitigate the impact of incorporation on the County. Payment shall be made as specified in the agreement approved by the Board of Supervisors on October 20, 2009, as subsequently amended on January 12, 2010, providing for mitigation payment from the City of Eastvale to the County over a specified period of time and incorporated by reference herein.
- e. Pursuant to Government Code Section 57376, the City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances previously applicable shall remain in full force and effect as City ordinances for a period of 120 days thereafter, or until the City Council has enacted ordinances superseding them, whichever shall occur first. Enforcement of continuing County ordinances in the incorporated area shall be with the City, except insofar as enforcement services are furnished in accordance with Government Code Section 57384.
- f. Pursuant to Section 57384, the County of Riverside shall continue to furnish all services provided to the area prior to incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation becomes effective or until the City Council requests discontinuance of the services, whichever occurs first. The new City shall be obligated to reimburse the County Riverside for the net cost of services provided in accordance with the provisions of Section 57384(b).
- g. In accordance with Section 57385, all roads and highways or portions thereof within the subject territory, which had been accepted into the County road system prior to the first signature on the petition initiating incorporation, shall become city streets on the effective date of incorporation.

- h. Notwithstanding subdivision (b) of Section 57385, all roads accepted into the county road system subsequent to the first signature on the petition initiating incorporation and prior to the effective date of incorporation shall become city streets on the effective date of incorporation.
- i. In accordance with Government Code Sections 56886(t), the City shall have the authority to continue the levying and collection of any previously authorized charge, fee, assessment or general or special tax levied within the subject territory by the County or other subject agency, including, but not limited to, transient occupancy tax, franchise fees, business license fees, property transfer tax, and sales and use tax.
- j. In accordance with Section 56886(u), the authority and responsibility for special assessment districts associated with any County Landscape Maintenance District shall be transferred to the new city upon incorporation.
- k. The Eastvale Incorporation Committee shall defend, indemnify, and hold harmless the Riverside County Local Agency Formation Commission ("LAFCO"), its agents, officers, and employees from any claim, action, or proceeding against LAFCO, its agents, officers, and employees to attach, set aside, void, or annul an approval of LAFCO concerning this proposal.
- l. At the earliest possible time after the effective date, the City shall take necessary actions to participate in regional agencies, plans and programs, specifically including Western Riverside Council of Governments, Riverside County Transportation Commission, Multi-Species Habitat Conservation Plan and the Transportation Uniform Mitigation Fee Program.