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1/21/2010

TO: Local Agency Formation Commission

FROM: Adriana Romo, Local Government Analyst II
George J. Spiliotis, Executive Officer

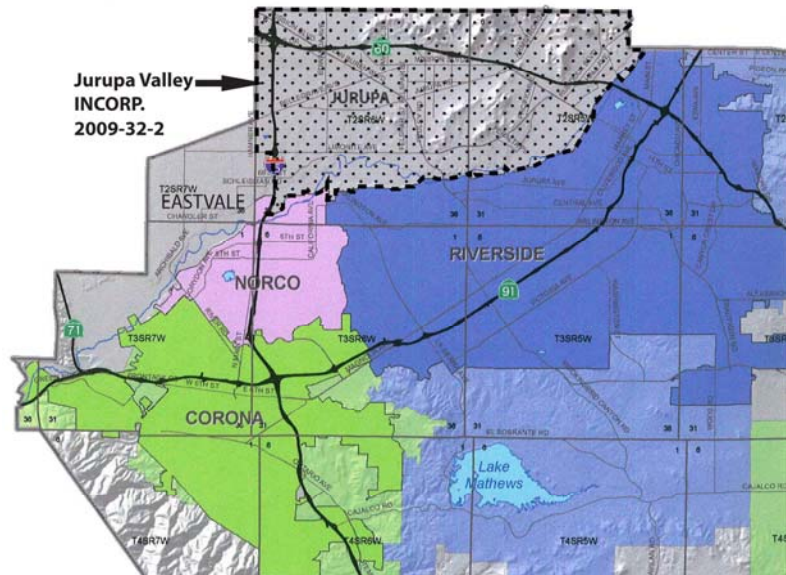
SUBJECT: LAFCO 2009-32-2-REORGANIZATION TO INCLUDE INCORPORATION OF JURUPA VALLEY, CONCURRENT DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT AND DISSOLUTION OF COUNTY SERVICE AREAS 72 & 73.

PRIOR AGENDAS/RELATED ACTIONS: Proposed incorporations of Jurupa and Mira Loma, 1990-91, Proposed Incorporation of Eastvale, 10/22/09.

EXECUTIVE SUMMARY:

This report provides an overview of the proposed incorporation of Jurupa Valley as the 27th or 28th city in Riverside County dependent on the ultimate outcome of the Eastvale incorporation. Three alternative boundary alternatives were initially analyzed for fiscal viability, however the smallest, Alternative 1, has been eliminated by the proponents from the current CFA. The preference of the applicant is Boundary Alternative 3, which encompasses the largest area extending west of the I-15 to Hamner Ave. This alternative however, would not be supported by staff. Staff has previously indicated to the proponents that we would not be recommending approval of one incorporation if it would eliminate the fiscal ability of the other to incorporate.

As of December, revenue neutrality negotiations were at an impasse for the Jurupa Valley Incorporation. At this time, the proponents of the incorporation have requested a continuance of this proposal to the March 2010 hearing date to continue discussions of revenue neutrality with the County. Staff supports the request and is recommending continuance. However, a full analysis has been presented in order that the Eastvale and Jurupa Valley proposals may be evaluated concurrently as requested by the Commission in October.



The Eastvale incorporation proposal was continued from October of 2009 to be heard concurrently with the Jurupa incorporation since they are competing proposals. Both the Eastvale and Jurupa Valley proposals include commercial and industrial territory along the Interstate 15 corridor as their preferred city limits for feasibility purposes. Although on its face, utilizing I-15 as a common boundary between the two communities would appear equitable, at this time it would not provide for fiscal viability of the Jurupa Valley proposal. Based on the current Jurupa CFA and Eastvale CFA, there is not sufficient revenue to support two cities.

The primary tool for determining viability is the statutorily required Comprehensive Fiscal Analysis (CFA), which indicates an annual deficit beginning in Year 2 (FY 2012-13) in both Boundary Alternatives 2 and 3. Boundary Alternative 2 is clearly infeasible beginning in Year 2.

Again, staff recommends a continuance to the March 25, 2010 hearing date.

BACKGROUND:

The concept of incorporation is not new to this area. In late 1989, a proposal for the incorporation of the greater Jurupa Valley was filed, encompassing all inhabited communities north of the Santa Ana River and the dairy lands of Eastvale. A few months later a competing incorporation proposal was filed for the community of Mira Loma. The Mira Loma proposal was entirely within the proposed Jurupa boundaries, including all territory west of Country Village Road and Van Buren Blvd.

Eastvale landowners representing approximately 80 percent of the acreage west of Wineville Road petitioned LAFCO to remove that area from both incorporation proposals. Additionally, approximately 200 residents of the Swan Lake Mobile Home Park, located between Hamner Avenue and I-15, requested removal from both proposals.

At that time, staff recommended approval of the larger Jurupa proposal, as the fiscally superior proposal, excluding the majority of the Eastvale area. Ultimately, the Commission granted the petitioners requests, removing all land south of Bellgrave Avenue and west of Wineville Road from both proposals. In 1991, the Commission conditionally approved both incorporation proposals, excluding the Eastvale area. The conditions provided that if both proposals were approved by voters within their respective boundaries, Jurupa would incorporate without the Mira Loma area. Ultimately, voters rejected both proposals by wide margins in the face of a declining economy.

GENERAL INFORMATION:

APPLICANT: The proposal has been initiated by resolution of application by the Jurupa Area Recreation and Park District.

LOCATION: Boundary Alternative 2 is generally east of the Interstate-15., north and west of the City of Riverside, and south of the San Bernardino County Line. Boundary Alternative 3 extends the boundaries to include the area between Hamner Ave. and Interstate-15 north of Limonite Ave. See attached exhibits.

POPULATION: The population of the proposed City of Jurupa Valley as estimated by the County of Riverside, represented by Boundary Alternative 2 is 87,818 and 92,356 for Boundary Alternative 3.

REGISTERED VOTERS: As of July 2009, the County Registrar reported 29,942 registered voters within the proposed Jurupa Valley Incorporation-Boundary Alternative 3.

AREA: The area of the proposed city is approximately 47 square miles under Boundary Alternative 3 and approximately 45 square miles under Boundary Alternative 2.

CEQA DETERMINATION: The Commission is the lead agency for any incorporation. BonTerra Consulting was retained by LAFCO to conduct an initial study of the incorporation pursuant to CEQA. The resulting analysis indicates the proposed incorporation has no significant environmental impacts. Therefore, it is recommended that the Commission adopt a Negative Declaration for the incorporation. The Initial Study/Negative Declaration was previously transmitted to Commissioners for review.

PROPERTY TAX EXCHANGE: The Commission is required to determine the amount of property taxes transferred to a new city. Incorporation of a new city does not increase property taxes to affected property owners. New cities receive a share of existing property taxes from other agencies in correlation to services that are to be transferred to the new city.

When only a portion of the services provided by an agency are being transferred to a new city, the transfer is determined pursuant to a formula defined in Government Code Section 56810. This formula is applicable to general fund supported services transferred from the County to the new city. The transfer is the product of two numbers, a) the net cost of services to be transferred and b) the proportion of County General Fund property taxes relative to all general purpose revenue, also known as the "Auditor's Ratio". The resulting product, as determined by the Commission, establishes the Base Year property tax transfer. The net cost of transferred services for Boundary Alternative 2 is \$17,081,697, which is multiplied by the Auditor's Ratio of .3822293676, to yield a Base Year general fund property tax transfer of \$6,529,126. The net cost of transferred services for Boundary Alternative 2 is \$17,070,768, which is multiplied by the Auditor's Ratio of .3822293676, to yield a Base Year general fund property tax transfer of \$6,448,975. These calculations are outlined in the CFA Appendix, Boundary Alternative 2, Exhibit 1 (pg. 48) and Boundary Alternative 2 Exhibit 1 (pg. 48).

The Base Year transfer is then adjusted for subsequent changes in assessed value each year. In addition to the General Fund transfer, the city would receive all of the Structural Fire Tax generated within the affected area, but outside of the Rubidoux Community Services District since it would assume responsibility for all fire protection services in that area. The new City would also assume the streetlighting functions of CSAs 72 and 73 and would receive all the property tax monies previously being transmitted to the CSAs.

EXISTING CONDITIONS: The Jurupa Valley is a large, established community with a variety of urban and rural land uses consisting of residential, agricultural, commercial, public uses, and industrial uses. The proposed incorporation area is made up of several diverse sub-communities consisting of Glen Avon, Rubidoux, Belltown, Mira Loma Sunnyslope, Jurupa Hills, and Pedley. Rubidoux has an urban setting of mixed land uses inclusive of single family, multi-family, commercial, and public land uses. Mira Loma is a portion of the more established area in Jurupa Valley, also rural with limited commercial uses mostly located on Etiwanda Ave. Jurupa is predominantly single family residences and also includes two golf courses. Pedley and Glen Avon are semi-rural communities. Sunnyslope is a small single-family residential area, with some commercial, and the Oak Quarry Golf Club. Belltown consists of single-family residential, vacant land, industrial, manufacturing, and a small scale recreational race track.

A significant portion of commercial retail and industrial development has occurred along the I-15 corridor as well.

LAND USE PLANS: The County's General Plan calls for continued urbanization of the area, including continued development of the remaining vacant lands adjacent to I-15. The majority of land uses currently in Jurupa Valley are low density residential, followed by pockets of commercial areas, and industrial uses. Among the first actions required of a new city council is to adopt all County ordinances, including those establishing zoning. State law allows newly incorporated cities 30 months to adopt their general plans. Therefore, incorporation itself has no direct impact on land uses.

SIGNIFICANT ISSUES:

REQUIREMENT FOR FISCAL VIABILITY: The determination of fiscal feasibility is typically the central issue in the evaluation of an incorporation proposal. The following sections analyze different aspects of the fiscal issue.

Statutory Requirements: State law prohibits the Commission from approving an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Section 56800 requires the Executive Officer to prepare, or cause to be prepared, a Comprehensive Fiscal Analysis (CFA) of incorporation.

Statutorily, the CFA is part of the executive officer's report to the Commission. The CFA and staff analysis are the bases for the Commission's determination of feasibility.

Policy and Approach: Commission Policy allows the CFA to be managed in one of two ways. Incorporation proponents can directly hire and manage a consultant to prepare the draft CFA. Under this scenario, proponents are directly responsible for consultant selection, payment, and the timing of the analysis. Alternatively, LAFCO can retain a consultant to prepare the CFA with funds deposited by the proponents. LAFCO manages the consultants work as long as funds are on deposit. The first model was utilized for the Jurupa Valley CFA.

Several Commission policies guide the development and evaluation of the CFA. Some of the most significant ones are listed below:

CFA Requirements-In order to minimize the likelihood of forming a city that cannot sustain itself, the following principles shall govern the preparation of the CFA:

- Costs of services should be based upon existing levels of service.
- All revenue estimates/projections shall be conservative.
- Extreme care shall be taken to ensure that all costs are accounted for.
- Costs for functions that are not being directly assumed from another agency (e.g. the County) should use similarly sized cities as a basis for estimates. This is especially applicable to administrative functions.
- While State law only requires an analysis of the city's first three years, the Riverside LAFCO requires an analysis projecting out a minimum of eight years. Many State subventions for new cities are based on a calculated population of three times the number of registered voters for the first seven years after incorporation. This formula, which typically greatly exceeds actual population, provides a temporary source of enhanced revenue-a "bonus" to help new cities get started. The purpose of the increased time frame is to capture the fiscal status of the city at the point when state subventions are based upon actual population. This analysis allows the Commission and the community to gauge the long-term viability of incorporation.
- Section 56720 requires that the Commission, in approving an incorporation, find that the new city will have sufficient revenue to provide public services and facilities and a "reasonable reserve". Consistent with OPR Guidelines the CFA should include an appropriation for contingency of at least 10 percent and an additional reserve of 10 percent.

Contingency and Reserves: As noted above, the Commission cannot approve an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Practical implementation of this requirement exists in both adopted Commission Policy and the OPR Incorporation Guidelines. Consistent with the OPR Guidelines, Commission policy requires an annual contingency of 10 percent (OPR recommends 10-20%) as well as a reserve of 10 percent. The contingency acts as a cushion or hedge against variations between actual costs and revenues and those projected in the CFA. The CFA conservatively assumes the full amount of contingency is appropriated and expended each year. It is not carried over from year to year in the CFA model. A 10 percent operating reserve is also identified. That 10 percent operating reserve and any remaining surpluses are assumed to be carried over from year to year in the CFA unless utilized to fund current year operations.

OPR Guidelines explain the necessity for both an appropriation for contingency and a reserve as follows:

- A new city has no historical track record on the cost or level of services required to meet the expectations of the newly incorporated community.
- Unanticipated expenditures could occur due to major disasters, emergencies, liability claims, and litigation settlements.
- Local finances may be subject to changes based on the State's budget.
- Changing economic conditions could result in a decrease in general fund revenues.
- Funds may have to be budgeted for non-road-related capital improvement projects. As the new city grows in staffing and assumes services from the county and outside contractors, there will be a need for new facilities, vehicles and other major equipment.

Preparation of Jurupa Valley CFA: The proponents have retained Winzler & Kelly to prepare the required fiscal analysis. Preparation of the CFA is an iterative process that starts with data being provided by the current service providers, primarily the County of Riverside in this instance. Revenue data is also collected from the County and other agencies, such as the State Board of Equalization. As required by State law, cost and revenue data collected represent actual figures for fiscal year 2007-08, referred to as the base year. Various assumptions are made to project base year costs and revenues throughout the ten-year study period.

Based on this initial data collection effort, an Administrative Review Draft is prepared for review by the agencies providing the data and LAFCO staff. Changes are made and a Public Review Draft is released for review by the general public and local government agencies. Based

on comments received, responses are prepared and additional changes may be made to produce the Public Hearing Draft CFA, which is currently before the Commission. The Public Hearing Draft also includes either calculated or negotiated mitigation payments to the County, pursuant to the "Revenue Neutrality" statute (discussed in more detail below). This CFA includes estimated revenue neutrality payments based on the calculated annual impact to the County General Fund.

An Administrative Review Draft CFA for Jurupa was submitted March 13, 2009. Many comments from County and LAFCO staff were transmitted to the consultant from April through June. A Public Review Draft CFA was released on September 23rd and published on the Commission's website September 25th. Comments from public agencies, residents and property owners were received through October 26th. The comments resulted in several revisions to the analysis reflected in the Public Hearing Draft CFA submitted by the proponents on December 15th. The CFA, comments received on the Public Review Draft and Responses to Comments were all posted on the Commission's website.

Revenue Neutrality: The mid 1980's and early 90's saw a wave of incorporations throughout the State. From 1987 through 1992 alone, 25 new cities were formed. In virtually all cases, incorporations were fiscally successful due to relatively large amounts of sales tax and to some extent transient occupancy tax generated within those communities. In most cases, revenues generated were far in excess of the costs to continue to provide services to the areas. The new cities' gains were losses to the host counties. The continued discretionary revenue losses were seen by many counties as a threat to the future provision of both municipal and countywide services.

In 1992 the Legislature passed legislation designed to eliminate or reduce the negative impact of incorporations on counties. Section 56815 generally provided that a commission cannot approve an incorporation unless the revenues to be transferred from the county to the new city are substantially equal to the cost of services to be transferred. In other words, no more revenue windfalls for new cities. The "Revenue Neutrality" law became effective January 1, 1993, and had an immediate and powerful chilling effect on new city formations. Over the next six years, only five incorporations occurred Statewide.

Section 56815 and the OPR Guidelines provide the methodology for determination of the impact of incorporation upon the county. Very simply, it is the difference between the cost of services to be transferred and the revenues to be transferred. This calculation is made based on "base year" figures. The result represents the annual loss to the county resulting from incorporation.

Section 56815 provides two instances whereby LAFCO can approve incorporation where there is a net impact to the county, as follows:

1. The county agrees to a lesser mitigation (typically achieved through negotiation with incorporation proponents). This typically involves payments by the city to the county over some fixed period of time.
2. LAFCO imposed terms and conditions "adequately" mitigate the negative fiscal impact to the county.

In either of the two instances above, mitigation must be incorporated into the Commission terms and conditions of approval. These terms and conditions, in turn, become part of the official ballot measure presented to voters, thereby binding the city to those terms.

Thus far, the County and proponents have not arrived at a negotiated mitigation to achieve revenue neutrality. The estimated annual impacts to the County general fund calculated pursuant to State Law are \$982,898 and \$3,502,775 for Boundary Alternatives 2 and 3, respectively. These totals are included in Figure 5 (pg. 23) in the CFA.

REORGANIZATION SERVICES: As proposed, the City Jurupa Valley would be responsible for the following services: general legislative and administrative functions, land use planning, regulation/control over land use development, maintenance of public roads and other public infrastructure owned by the city, law enforcement, and fire protection services.

There are several independent special districts providing municipal services within the incorporation boundaries. Their services will remain unchanged. The Jurupa Recreation and Park District will continue to provide park and recreation services within the incorporated boundaries. Water and wastewater services are currently divided between the Jurupa and Rubidoux Community Services Districts. Each will continue to provide water and wastewater services within its respective boundaries. In addition to water and wastewater services, Jurupa Community Services District also provides street lighting services. Rubidoux Community Services District also provides fire protection, refuse collection, and streetlighting services.

Library services will continue to be provided by the Riverside County Public Library System. The proposal assumes fire protection and law enforcement services will be provided by contract with the County of Riverside, with the exception of the area currently receiving fire protection services from the Rubidoux Community Services District.

RESULTS OF THE CFA:

Summary Conclusion of Report: The CFA evaluates two different Boundary Alternatives. Boundary Alternative 2 (Study Areas 4,5&6) and Boundary Alternative 3 (Study Areas 2,4,5&6). Please see attached exhibit.

An overview of Boundary Alternative 2 shows a general fund surplus of

approximately \$8.4 million at the end of the transition year (FY 2011-12). A transition year surplus is typical for virtually all incorporations. From the effective date of incorporation through the end of that first fiscal year, the County is required to continue providing municipal services without payment. During this period the new city receives many significant revenues. However, this provides the new city with a decidedly positive cash flow by fiscal year end to comfortably manage start-up costs such as leasing office space, beginning staff recruitment, including consultants, and hiring initial management staff to prepare required filings and other administrative necessities. (It should be noted that the City is required to reimburse the County for those transition year services over the subsequent five year period.)

At the time the proposed City assumes all services under Boundary Alternative 2, the first full year, the CFA demonstrates annual deficits beginning in Year 2 through the end of the study period. In Years 2 and 3 the CFA shows a general fund operating shortfall of an estimated 11 percent that amounts to \$3.64 million and \$3.76 million, respectively. By the end of the third year, the City is projected to have exhausted all but \$1 million of its reserve, far less than the \$6 million shortfall projected for the following year. Under current assumptions Boundary Alternative 2 is not feasible.

Similarly, Boundary Alternative 3 show deficits for Years 2-3 of 8.2 and 7.7 percent (FY 2012-13 and 2013-14), respectively. Reserves are used to offset shortfalls. By Year 4 the reserves will be fully expended and operating shortfalls increase.

The conclusion of the Public Hearing Draft CFA is that incorporation of Jurupa Valley Boundary Alternative 3 is fiscally viable pending revenue neutrality negotiations. This conclusion is based on the carryover of earlier year surpluses to offset operating shortfalls in middle years of the analysis and also does not take into account any revenue neutrality payments. Using calculated impacts to the County as estimated Revenue Neutrality payments, the general fund experiences operating shortfalls in Years 2-9. Staff cannot conclude that Alternative 3 is feasible at this time.

One significant source of general fund shortfalls is the large general fund subsidy required for structural fire protection for both boundary alternatives. The property tax revenue generated for the structural fire fund to be transferred to the newly incorporated City is not sufficient to cover the cost of providing fire protection services at its current level. Structural Fire Tax covers less than half of the fire protection costs, leaving the general fund to cover the remainder. Under both boundary alternatives between \$6.4 million - \$9.5 million are transferred from the general fund to offset the fire protection costs annually. On a Countywide basis, the amount of structural fire tax generated is insufficient to cover the full cost of fire protection services. The County must augment the structural fire tax with general fund dollars to maintain the currently level of

service. The level of general fund support that would be required by the new City, however, is much greater.

Unlike most newly incorporated cities that show substantial surpluses in the road fund, Jurupa Valley would be challenged with a deficit in this fund. The impact of the road fund deficit is much greater under Boundary Alternative 2, beginning in Year 2 through the remainder of the study period. Boundary Alternative 3 shows a road fund deficit of approximately \$373,552 for a period of two consecutive fiscal years, Years 5 & 6 (FY 2015-16 & 2016-17). Accumulated reserves of approximately \$5 million can offset these small temporary shortfalls in Years 5 & 6 of Boundary Alternative 3.

BOUNDARIES: A competing proposal, the Incorporation of Eastvale, and Jurupa Valley proposal overlap, each including commercial and industrial territory along the Interstate 15 corridor. Though the proposals were filed several months apart, data collection and preparation of the two CFAs was performed concurrently due to the fiscal interdependence between the two proposals.

Both incorporation proposals analyzed multiple boundary scenarios. Two boundary scenarios were analyzed in the Eastvale CFA. The boundary primarily addressed in the Eastvale report (Scenario 1) includes all unincorporated territory east of Prado basin, north of the Santa Ana River and west of I-15. Scenario 2, the proposal included in the original petition, extended one-half mile east of I-15 to Wineville Road. The proponents have indicated their preference for Scenario 1.

Jurupa Valley has also analyzed multiple boundary alternatives. The largest of three alternatives analyzed extends west across I-15 to Hamner Ave. and north of Limonite Ave. Boundary Alternative 3 is the boundary filed with the Commission and also represents the proponents' preferred alternative. This alternative has not been supported by staff since it would eliminate any potential fiscal viability for Eastvale to incorporate.

The City of Riverside has submitted a letter requesting the Commission revise the Jurupa Valley's proposed incorporation boundaries to exclude any area south of the Santa Ana River. Although the City of Riverside's boundaries do not extend to correspond with the Santa Ana River, it maintains and operates several amenities as well as facilities in the Santa Ana Riverbed. These facilities are only accessible from the southside of the River from the City of Riverside. The City also mentions a small parcel of approximately 2 acres north of the Santa Ana River that should be detached from the City of Riverside due to lack of access. Staff supports the City's request for modified boundaries. If the Commission approves Jurupa Valley at a future date, staff recommends a southern boundary consistent with the boundary suggested by the City of Riverside (Please see attached correspondence).

TAXES AND ASSESSMENTS: No additional general taxes, special taxes or assessments are proposed in conjunction with the incorporation. Continuation of taxes, assessments and charges associated with any landscape and lighting maintenance districts or other assessment districts should be a condition of any approval of this proposal.

County Service Area 152: CSA 152 has been used in the past by the County to fund programs to comply with the National Pollutant Discharge Elimination System (NPDES) under the Federal Clean Water Act, such as street sweeping. Many cities in the County have annexed to this CSA and continue to levy assessments for that same purpose. No changes are proposed for CSA 152. If Eastvale incorporates, this CSA would remain in place as an option for the new city to fund NPDES compliance activities.

DISSOLUTION OF COUNTY SERVICE AREAS 72 & 73: Portions of proposed incorporation boundaries are currently within the boundaries of CSAs 72 and 73 which are authorized to provide street lighting services. Upon incorporation, the City will be authorized to provide street lighting services within its boundaries and the CSAs services will no longer be necessary. The portion of the one percent property tax levy currently received by the CSAs will be transferred to the newly incorporated City.

DETACHMENT FROM COUNTY WASTE RESOURCES MANAGEMENT DISTRICT (RCWRMD): On March 24, 1994, the Commission approved the formation of the RCWRMD as a separate financial and legal entity to operate and finance solid waste facilities in Riverside County. The District became effective on May 2, 1994. As part of the Commission's action, it determined that future annexations to cities (incorporations are implied) should detach from the RCWRMD unless those cities have annexed to the District. This is based on an understanding between the County and the COGs that annexation of cities to RCWRMD will be accomplished in an organized fashion to ensure appropriate representation on the governing board of the District. Therefore, staff will recommend concurrent detachment from the RCWRMD if incorporation is approved.

COMMENTS FROM AFFECTED AGENCIES/INTERESTED PARTIES: Few comments have been received pertaining to the fiscal analysis and the proposal in general. Those comments received during the public review period for the CFA have been previously transmitted to the Commission with the related responses. The **City of Riverside's** comments regarding the proposed City's southern boundary previously mentioned are attached. Comments regarding the incorporation boundaries were submitted by a **David & Kimberly Robinson**, Mira Loma residents stating that Jurupa Valley should extend to Hamner Ave. to correspond with zip codes and school district boundaries.

PROCEEDINGS FOLLOWING COMMISSION ACTION: Actions and procedures for annexations and other boundary changes are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Section

56000 states that the Act "provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts."

Section 57000 et seq. sets forth the procedure following approval of a proposal by the Commission. If disapproved by the Commission, no further proceeding shall take place. If approved, an election would be called by the Board of Supervisors. The ballot would include the question of incorporation, inclusive of any terms and conditions established by the Commission, and the election of the first city council members. The ballot will also ask voters to decide whether future council elections will be conducted by district or at large. This statutory process cannot be altered by action of the Commission or any other entity.

EFFECTIVE DATE: CKH requires the Commission to establish a specific effective date for a new city with certain limitations. The effective date must be included in the terms and conditions of any approval of the proposal. The effective date assumed in the CFA, July 1, 2011, is recommended if the Commission decides to approve the incorporation at a future date, if the election schedule allows.

FINDINGS, DETERMINATIONS, TERMS AND CONDITIONS: In recognition of the grave and almost irreversible nature of incorporations, the Legislature has placed a higher standard of Commission review for their approval compared 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 approves 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.

As noted earlier, the Board of Supervisors has not taken action on a Revenue Neutrality agreement. When executed the terms and conditions should incorporate the mitigation included in this agreement by reference.

Staff's recommendation is to honor the proponents request for a continuance. Therefore, no findings, determinations, terms or conditions have been prepared at this time.

CONCLUSIONS: No final conclusions are being prepared at this time. When this item is before the Commission in March of this year, the final conclusions and recommendations will be provided.

SPECIFIC RECOMMENDATIONS:

Based on the factors outlined above, IT IS RECOMMENDED that the Commission:

1. Staff recommends continuance as requested by the proponents to the March 25, 2010 hearing date.

Respectfully submitted,

George J. Spiliotis
Executive Officer

Adriana Romo
Local Government Analyst II

