

RESOLUTION NO. 73419

Resolution of the Council of the City of San José ordering the reorganization of certain uninhabited territory designated as Story No. 57 subject to liability for general indebtedness of the City after finding protests insufficient to terminate such proceedings.

WHEREAS, a petition for the annexation of certain territory to the City of San José and detachment of said territory from Central Fire Protection, Area No. 01(Library Services) County Services, County Sanitation District 2-3, consisting of 3.18 acres located at the south side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue, (APNs 601-15-038; 601-15-039; & 601-15-040) has been filed by San Jose The Lord's Baptist Church of San Jose; and

WHEREAS, the distinctive short form designation of the territory proposed to be reorganized is Story No. 57; and

WHEREAS, the City of San José, by its **Resolution No. 73351**, adopted on August 15, 2006, duly initiated reorganization proceedings for annexation and detachment of certain uninhabited territory gave notice of hearing on the proposed reorganization and written protests in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Council of the City of San José was duly designated as the conducting authority for further proceedings to reorganize the territory described therein by said Resolution; and

WHEREAS, said territory is uninhabited and not all land owners of land included in the proposal have consented to this annexation; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body of the city, and the City Council of the City of San José has initiated this annexation proposal and is now the conducting authority for said annexation; and

WHEREAS, the reason(s) for the proposed reorganization, as set forth in the City's resolution initiating reorganization proceedings is to facilitate subsequent development for residential uses; and the following special district would be affected by the proposed annexation: Central Fire Protection, Area No.01 (Library Services) County Services and County Sanitation District 2-3; and

WHEREAS, annexation would provide for the use of City Services; and

WHEREAS, the City's **Resolution No. 73351** fixed September 19, 2006, at 7:00 p.m., in the Council Chambers of the City of San José, City Hall, 200 East Santa Clara Street, San José, California, as the date, time and place said Council would conduct a hearing on this proposed reorganization as well as any protest(s) against said reorganization from any owner of land within the territory; and

WHEREAS, in accordance with California Government Code Section 57025 (a and b) and Section 57026, the City Clerk of the City of San José has provided mailed notice of the hearing on the proposed reorganization and notification of their eligibility to protest this City-initiated proceeding with instructions on how to prepare a valid, written protest; and

WHEREAS, the City of San José has conducted a public hearing on the proposed reorganization in accordance with Section 57050 of the California Government Code, to accept protest, objections or evidence which is made, presented, or filed; and

WHEREAS, the City of San José, did not receive as of September 19, 2006 any written protest letter in connection with the proposed reorganization; and

WHEREAS, the regular County assessment roll is utilized by this City; and

WHEREAS, land and improvements within the territory shall be liable for the general indebtedness of the City of San José existing at the time of annexation; and

WHEREAS, a Mitigated Negative Declaration was prepared for a rezoning project under File Nos PDC 05-061 & C05-079 and said Mitigated Negative Declaration became final on December 5, 2006; and

WHEREAS, this Council has considered and approved said Mitigated Negative Declaration prior to taking any action on this annexation proposal; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara County Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the Santa Clara County Local Agency Formation Commission's road annexation policies.
3. The proposal does not split lines of assessment or ownership in that all affected parcels are being organized in their entirety.

4. The proposal does not create islands or areas in which it would be difficult to provide municipal services in that, as proposed the annexation will not create islands. The completion of reorganization proceedings would result in the reduction of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that the proposed annexation is consistent with the City's adopted policy within the General Plan, as well as LAFCO and the County of Santa Clara policy that existing and future urban development be located within cities.
6. The territory is contiguous to existing City limits. The area proposed to be reorganized is contiguous to the City limits along the east side as shown on the map attached hereto as Exhibit B and incorporated herein.
7. The City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's Urban Service Area:
 - a. No such conditions have been imposed.
8. The pre-zoning on the subject territory is A(PD) Planned Development zoning designation to APN 601-15-038; 039 and R-1-5 Single-Family Residential zoning designation to APN 601-15-040, all as adopted by ordinance of the City Council on June 13, 2006.
9. That all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE HEREBY FINDS AND DETERMINES AS FOLLOWS:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated "Story No. 57", more particularly described in Exhibit "A" and more particularly shown upon that certain map attached hereto as Exhibit "B," both of which are incorporated herein by this reference;
2. That the following findings are made by the City Council of the City of San José:
 - a. Said territory is uninhabited and comprises approximately 3.18 acres.
 - b. The annexation is consistent with the orderly annexation of territory within the City's urban service area and is consistent with the City policy of annexation when annexed (providing City services).
 - c. The City Council has considered and adopted a Mitigated Negative Declaration completed December 5, 2006 for this proposal in compliance with the California Environmental Quality Act and the Council has considered such Mitigated Negative Declaration.

- d. The City Council on June 13, 2006 enacted an ordinance pre-zoning the subject territory with A(PD) Planned Development Zoning Designation as to the parcel of land known as APN 601-15-038; 039 and R-1-5 Single-Family Residence Zoning Designation as to the parcel of land known as APN 601-15-040.
 - e. The territory is within the City's urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
 - f. The County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The City shall reimburse the County for the actual cost incurred by the County Surveyor in making this determination.
 - g. The proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
 - h. The proposed annexation does not split lines of assessment or ownership.
 - i. The proposed annexation is consistent with the City's General Plan.
 - j. The territory to be annexed is contiguous to existing City limits.
 - k. The City has complied with all conditions imposed by the Commission, if any, for inclusion of the territory in the City's urban service area
3. That the City Council, therefore, hereby orders the territory designated "Story No. 57" reorganized and organized to include the following changes of organization: The following districts are detached: Central Fire Protection, Area No 01(Library Services) County Services and County Sanitation District 2-3, and the designated territory Story No. 57 shall to be annexed into the City of San Jose.
 4. That said annexation is hereby ordered without election and is subject to the following additional terms and conditions: none.
 5. That the exterior boundaries of the territory reorganized shall be all that real property in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein.

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BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness.

ADOPTED this 19th day of September, 2006 by the following vote:

AYES: CHAVEZ, CHIRCO, CORTESE, LeZOTTE, NGUYEN,
PYLE, REED, WILLIAMS; GONZALES

NOES: NONE

ABSENT: CAMPOS, YEAGER

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk