



Memorandum

To: Mayor and City Council**From: Councilmember Pete Constant****Subject: Annexation of Cambrian 36****Date: October 25, 2010****Approved:****Recommendation**

I recommend that the City Council approve:

- 1) Staff Alternative #2 – Defer annexation for one year and return with a proposed split of the pocket with Campbell. Additionally, staff should:
 - a) Establish a formal, public process, to conduct discussions with the City of Campbell so that the community can be fully aware of the content of these discussions and provide input throughout the process.
 - b) Conduct a fiscal analysis of different potential logical divisions of the unincorporated island that includes, but is not necessarily limited to, potential divisions previously discussed with the City of Campbell, i.e. the City of San José annexing commercially zoned parcels along the arterial roadways and the City of Campbell annexing residential parcels.

Background

As the City of San José's representative on the Local Agency Formation Commission (LAFCO), I have had the opportunity to be involved with numerous incorporation proceedings in San José and other cities throughout Santa Clara County. This specific annexation and the issues surrounding the communities concerns were brought to LAFCO's attention when I was the chair of the commission.

In an effort to better understand the policy issues and community concerns, I had discussions with LAFCO staff and legal counsel, City of San José Planning Department staff, the City Attorney, City of Campbell elected officials, City of Campbell administration, and residents of Cambrian 36.

During these discussions with City of Campbell elected officials and administration, I was made aware of many previous discussions, including discussions in 2006 and a potential solution that was more recently discussed between the two cities that entailed the City of San José annexing commercially zoned parcels along the arterial roadways and the City of Campbell annexing residential parcels. Campbell city officials relayed to me that they were later caught by surprise when the City of San José dismissed this idea and told them that we were no longer pursuing such an option.

The September 22, 2010 staff report refers to a discussion in 2006 between the City of San José and the City of Campbell in which Councilmember Chirco spoke on behalf of the City of San José indicating that the City was not interested in pursuing modifications to the City's Sphere of Influence (SOI) or Urban Service Area (USA). This response was predicated on *City Council*

Policy 6-15: City Boundary Changes in Existing Urbanized Areas. It is unclear to me if this position was a stance taken by council action or by Councilmember Chirco personally.

While the description of the policy is accurate, its context and application is not. *City Council Policy 6-15* states:

BACKGROUND

For a variety of reasons, citizens living in the fringe areas of San José periodically submit requests to the City Council which would allow them to **deannex from San José and annex to an adjacent community**. Boundary changes are a complex issue of services and facilities. Since most boundary transfer areas constitute pieces and fragments of service areas, costs are very difficult to identify. Experience has shown that an analytical approach does not address the real issues that motivate boundary transfers. Identity is an emotional issue which does not lend itself to analysis.

PURPOSE

The purpose of this policy is to establish workable guidelines to be followed when considering boundary transfer requests. The foundation of this policy rests on the inherent responsibility of the cities involved to decide whether or not to modify their boundaries. Cities and districts must respect the existing boundary agreements. No government agency nor individual neighborhood interest group should be able to change a boundary unless both affected cities concur.

POLICY

It is the policy of the City of San José that the following guidelines be adhered to when considering city boundary change requests in existing urbanized areas:

1. Existing boundary agreement lines between cities should be maintained. It would serve no useful purpose to revive the long dormant annexation wars of the 1950's. Existing boundaries between cities have been established for a long time. Local governments have relied on these boundary agreements when planning and building facilities such as fire stations, parks, libraries, public works service yards, etc., and when developing programs for serving the incorporated territory.
2. The City of San José is satisfied with existing boundary agreements and will only consider modifications that include equal exchanges of like territory, population or tax base. City to city discussions are the appropriate forum for boundary agreements. If there are matters the affected cities want to work on together, they should initiate discussions to resolve them. Any exchange as listed above would have to be equitable from a fiscal standpoint to the concerned jurisdictions.
3. The City Council will consider citywide effects of any change in the boundary agreement line. The identity of a city extends throughout the entire city. Any change in the city boundary, particularly in an existing developed area, affects the whole city.
4. The City considers the needs and concerns of boundary area residents and property owners of equal importance to the needs of all citizens. City programs and services are citywide in scope. All geographic areas should receive equitable consideration.

As you can see from the highlighted section above, *City Council Policy 6-15* was established to prevent deannexation from the city limits of San José, specifically changing the boundaries of the city and does not contemplate new annexations or changes to SOI's of USA's.

As noted above, more recent discussions involved a potential solution between the two cities that entailed the City of San José annexing commercially zoned parcels along the arterial roadways and the City of Campbell annexing residential parcels. Even though this potential solution was discussed before the publication of the Keyser Marston Associates report, there has been no detailed analysis of the potential fiscal impacts to the City of San José. However, a review of the report indicates that the commercially zoned parcels account for 60,000 square feet of non-residential space that includes commercial buildings, offices, a hotel, a service station and a nursery school. Sales Tax and TOT taxes from this commercial area generate approximately \$195,000 per year. The associated property taxes received from the commercially zoned area do not appear to be segregated from the residential generated property taxes.

Given this limited information, it is unclear in the analysis whether the previously proposed split of the area would likely increase the positive impact to the City of San José or not.

City Council: 10/26/10

Item: 11.4

In a letter dated October 22, 2010 (attached for reference), the LAFCO Executive Director states , in part, “We recommend that you work collaboratively with the two cities and *encourage them to fully explore* and consider the boundary and/or service delivery options for this area” (emphasis added).

Conclusion

As Vice Mayor Chirco states in her memorandum, “difficult issues always require time – time spent listening, conduction outreach, discussing and researching.” I would add that true collaboration can only happen when all parties sit at the same table, *at the same time*, to fully discuss and analyze all options.

With this being the case, why are we rushing to make a policy decision that will permanently impact residents of this area, when no real urgency exists?

Only if the City Council directs staff to pursue Alternative #2 can we know that we have done all that we can do to address an issue that is so personal to so many people.



October 22, 2010

Mike Krisman, President
Campbell Village Neighborhood Association
905 Sweetbriar Drive
Campbell, CA 95008

Re: Streamlined Annexation of Cambrian #36

Dear Mr. Krisman:

LAFCO staff and Counsel have carefully reviewed and prepared the following response to your letter dated October 6, 2010, regarding the streamlined annexation of Cambrian #36.

It is a long standing joint policy of the County, LAFCO and cities that lands located within a city's urban service area (USA), annex to that city. State law prohibits LAFCO from reviewing an annexation of unincorporated lands within the urban service area of a city if the annexation is initiated by city resolution in compliance with the Cortese Knox Hertzberg Act. In such cases, the City Council has the full responsibility and discretionary authority to make the required findings. That said, LAFCO believes that the findings required by §56375.3 are very broad. The change in jurisdiction that the §56375.3 findings are considering is from unincorporated to incorporated territory. It is not necessary for the city in making the findings required under §56375.3 to evaluate whether the area can be served by another city as the area is already within the city's USA. There can be many benefits to annexation of an unincorporated area to a city, such as better neighborhood services, facilities and programs, less confusion regarding service providers, more ability for the residents to influence decisions in the neighborhood, and so on.

In your letter dated October 14, 2010, to the City of San Jose, you provide a list of services that would be better provided by Campbell rather than by San Jose even though Cambrian #36 is within San José's USA. The underlying issue for such information is that Cambrian #36 residents prefer annexation to the City of Campbell rather than to San Jose as they believe they would receive better services from the City of Campbell. As you are aware, annexation to Campbell is only possible following an amendment of the USA boundary between Campbell and San Jose - to include Cambrian #36 within Campbell's USA.

LAFCO policies only allow LAFCO to review and amend a City's USA, if such review is desired by the city and initiated by city resolution and application. Where the USA boundary is shared by more than one city, past practice has been to obtain each city's support for the USA review/amendment. Support from both cities is especially important in this instance because annexation of the entire island to Campbell may necessitate detachment of some lands from San Jose in order to establish logical boundaries. Therefore it is critical that the two cities work through this issue cooperatively.

LAFCO's service review for this area was completed in August 2006 for San Jose and in October 2007 for Campbell. The spheres of influence for these two cities were reaffirmed following these service reviews. The service review report that includes the City of Campbell acknowledges the interest of Cambrian #36 residents to be part of the City of Campbell and the City of Campbell's support for annexation of Cambrian #36. Again, since the sphere of influence (SOI) and USA are coterminous in the area, an amendment of these boundaries will require application to LAFCO by the cities. This application must include among other things, a plan for services, which must provide detailed information on how the proposed boundary changes will result in an efficient service delivery system. Upon receipt of such an application, LAFCO will evaluate the USA/SOI amendment proposal and make a decision.

In conclusion, LAFCO's interest is in having the Cambrian #36 island annexed to a city (either to San Jose or Campbell) to eliminate the inherent inefficiencies of the County providing municipal services to scattered neighborhoods that are surrounded by cities. We recommend that you work collaboratively with the two cities and encourage them to fully explore and consider the boundary and/or service delivery options for this area. Please do not hesitate to contact LAFCO staff with any further questions related to the LAFCO application process or policies. Thank you.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members

Joe Horwedel, Director, Planning, Building and Code Enforcement Department,
City of San Jose