



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel
Scott P. Johnson

SUBJECT: SEE BELOW

DATE: July 20, 2011

Approved

Date

7/21/11

COUNCIL DISTRICT: 9
SNI AREA: None

**SUBJECT: APPROVAL OF AGREEMENT WITH THE CITY OF CAMPBELL
RELATED TO REORGANIZATION OF TERRITORY DESIGNATED AS
CAMBRIAN NO. 36 AND ADOPTION OF A RELATED RESOLUTION TO
ALLOW CONSIDERATION OF AN ALTERNATIVE REORGANIZATION
ROPOSAL**

RECOMMENDATION

- (a) Approve an agreement with the City of Campbell to:
 - (1) Allow financial adjustments between the City of Campbell and the City of San Jose to account for costs and proceeds flowing from the possible future annexation of the Cambrian No. 36 pocket area to the City of Campbell; and
 - (2) Establish a process to calculate and reconcile such costs and proceeds during the term of the agreement;
- (b) Adopt a Resolution to accomplish all of the following:
 - (1) Extend until November 30, 2011 the time to work with the City of Campbell on an alternative reorganization proposal for the Cambrian No. 36 pocket area; and
 - (2) Express support for consideration of the City of Campbell's actions to annex the Cambrian No. 36 pocket including LAFCO consideration of detachment of the Central Park Drive, Oak Park Lane and Highland Park Lane area from the City of San Jose; and
 - (3) Suspending City's prior reorganization action for Cambrian No. 36; and
 - (4) Authorizing the Director of Planning, Building and Code Enforcement to take certain actions on behalf of the City including LAFCO's consideration of an amendment of the joint USA/SOI Boundaries of San Jose and Campbell and LAFCO's consideration of an amendment to facilitate the alternative reorganization of the Cambrian No. 36 pocket area pursued by the City of Campbell or, alternatively, to complete the City's Cambrian No. 36 reorganization if certain actions do not occur, whichever is appropriate.

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OUTCOME

Approval of the recommendation would allow the City to continue working with the City of Campbell on an alternative reorganization of the Cambrian No. 36 pocket area to Campbell, and a detachment of the adjoining Central Park Avenue neighborhood to Campbell and provide a revenue neutral basis for San Jose as compared to annexing the pocket to San Jose.

BACKGROUND

On December 7, 2010, the City Council adopted a resolution making determinations and ordering the reorganization of an inhabited, unincorporated island territory designated as Cambrian No. 36, generally bounded by Central Park Drive, State Highway 17, Camden Avenue, and Union Avenue. As part of that action, the City Council directed the Administration to refrain for a period of six months from proceeding to complete the change in organization to allow time for the City of Campbell to consult with the City of San Jose to review and study a possible reorganization of some or all of the affected territory of Cambrian No. 36 in a manner that would be revenue neutral or beneficial to the City of San Jose. The Administration would return to the Council after the six months with any appropriate actions related to the discussions with the City of Campbell. In June 2011, the Council extended the period for these discussions to September 30, 2011.

ANALYSIS

At the December 7, 2010 Council meeting, the City Council adopted Resolution No. 75659 ordering the annexation for the Cambrian No. 36 pocket and directed staff to:

1. Wait to register the annexation with the County for a period of six months.
2. Review and consider any revenue neutral proposal received during the six month period from the City of Campbell.

Following that meeting, staff from the Cities of Campbell and San Jose met to discuss the basic framework of such a proposal, and later agreed on a number of points as discussed below.

As directed by City Council, the goal was for the agreement to create a revenue neutral (net proceeds equal to those projected if San Jose annexed the pocket) basis for Campbell to annex the pocket, set protections for both cities that shared the upside of major changes in property, sales, transient and other taxes and proceeds over the life of the agreement, and acknowledge that costs could change in the future which would be a basis for recalculating proceeds and costs sharing with San Jose. The initial projected surplus from the pocket was estimated at approximately \$199,000 annually due in large part to a gas station and hotel in the annexation area. This amount is considered in the revenue

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neutral number to achieve. The draft agreement also considered longer term scenarios, as well as the issue of major capital costs for street maintenance.

The Council action to pursue an agreement with Campbell follows several years of community engagement and staff analysis of the options for this unique island. Those options were explored and discussed in the October 26, 2010 memo to the City Council. The direction recommended by staff going into the December 7, 2010 meeting was to annex the pocket including detaching from the Central Fire District and entering into a separate service agreement with the Fire District to provide fire emergency services. The Council action to pursue an agreement with Campbell would eliminate the need for a service agreement with the Central Fire District and the City of San Jose.

The Council decision to approve the resolution for annexation set in motion the annexation into San Jose if an agreement with Campbell could not be reached in a reasonable time. Staff suggested a six month period with acknowledgement that if progress was being made, staff would not record the annexation but rather continue working on the agreement. In June the City Council approved extending the six month period to allow additional time for the draft agreement to be completed.

The draft agreement includes several elements as directed by the City Council:

- Creating a revenue neutral agreement with the City of Campbell
- Protecting the City of San Jose from escalating long term costs from the pocket
- Sharing increases in net proceeds as they occur in the future
- Locking in a longer term for the agreement

The draft agreement also includes provisions to address issues deemed critical by both cities, including:

- Acknowledge the need to detach the small finger of land already annexed into San José on Central Park Drive
- Create a process to resolve differences of opinion in subsequent years regarding net revenues

The resolution submitted for Council consideration allows the parties to continue to work on the logistics of the proposal summarized above and sets forth how the City intends to respond upon the occurrence of various contingencies. If by November 30, 2011, the annexation has not been scheduled by LAFCO, then the Director of Planning, Building and Code Enforcement is directed to complete the City's previous Cambrian No. 36 reorganization. However, if by November 30, 2011, the item is scheduled for LAFCO, then the City's prior reorganization will be deemed abandoned. The resolution also sets forth the City's general support for consideration of an alternative reorganization of the area by the City of Campbell including stating that the Director is authorized to sign documents that may be required by Santa Clara County Local Agency Formation Commission to support consideration of Campbell's proposed annexation of the Cambrian No. 36 pocket area and detachment of the Central Park area from San José.

POLICY ALTERNATIVES

Alternative: At this point, the only other alternative is for the City Council to choose not to pursue an agreement with Campbell and allow the pocket annexation into San Jose to proceed. The City would receive approximately \$200,000 in net revenues a year initially.

Pros: No agreement with Campbell would be required.

Cons: Significant effort and energies by the community and respective cities would be lost by not proceeding with the agreement. The draft agreement developed by both cities meets the objectives set by the Council.

Reason Not Recommended: The Council created the opportunity for an agreement at the December 7, 2010 meeting and a draft agreement has been developed that meets the Council's direction. Significant ill will could result from all parties should the draft agreement not be considered and annexation into San José proceed.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The Cambrian No. 36 process has had extensive public outreach, as documented in various memoranda to the City Council in 2010. This staff report and other appropriate information was emailed to parties previously involved in the issue to enable their testimony at the City Council meeting.

FISCAL/POLICY ALIGNMENT

The draft agreement allows the City of San Jose to receive the net proceeds projected for the annexation from prior years and minimizes exposure to future cost increases from service contracts with the Central Fire District if the pocket was annexed into San Jose. While there are no General Fund costs associated with the agreement, there is the potential for General Fund revenues for the term of the agreement.

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COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project, File No. PP10-066, Agreements/Contracts; and San Jose 2020 General Plan Final EIR, Resolution No. 65459.

/s/
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

/s/
SCOTT P. JOHNSON
Director of Finance

For questions please contact Joseph Horwedel at 408-535-7900.