

RESOLUTION NO. 73076

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ REAFFIRMING THE PREVIOUS ORDERING OF REORGANIZATION OF CERTAIN UN-INHABITED TERRITORY DESIGNATED AS **MCKEE NO. 128** SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY AND ORDERING THE FURTHER REORGANIZATION OF MCKEE NO. 128 TO REFLECT A DETACHMENT OF THE AFFECTED TERRITORY FROM THE COUNTY LIGHTING COUNTY SERVICE DISTRICT

WHEREAS, a petition for the annexation of certain territory to the City of San José and detachment of said territory from the Central Fire Protection, Area No. 01 (Library Services) County Services and Sanitation District 2-3 consisting of 1.19 acres located on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue, (APN) 599-39-002 was filed with the City by ChoiSmith Associates, Inc.; and

WHEREAS, the distinctive short form designated for the territory to be reorganized is McKee No. 128; and

WHEREAS, the City of San José, by its **Resolution No. 72852** adopted on August 16, 2005 duly initiated reorganization proceedings for annexations and detachment of certain uninhabited territory and set the time and place for consideration of such reorganization 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 No. 72852**; and

WHEREAS, said territory is uninhabited and all land owners of land included in the proposal consent to this annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all land owners within the affected territory, the City Council may approve or disapprove the annexation without public hearings; 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 and therefore the City Council of the City of San José 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 No. 72852** initiating reorganization proceedings is to facilitate subsequent development and residential uses; and

WHEREAS, on August 30, 2005, the City Council duly held a noticed, public hearing on the proposed reorganization of McKee No. 128 and on that date adopted **Resolution No. 72871** ordering the annexation and reorganization of territory known as McKee No. 128, and specifically ordered the territory to be detached from Central Fire Protection, Area No. 01 (Library Services) County Services and Sanitary District 2-3; and

WHEREAS, on December 12, 2005, the County of Santa Clara Assessor's Office notified the City that the territory known as McKee No. 128 also should have been detached from the County Lighting County Services district;

WHEREAS, pursuant to the new information received from the County of Santa Clara in connection with McKee No. 128, City of San José, by its **Resolution No. 73065** adopted on February 14, 2006 duly initiated reorganization proceedings for annexations and detachment of McKee No. 128 territory from the County Lighting County Services district and set the time and place for consideration of such reorganization 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 No. 73065**; and

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

WHEREAS, the City's **Resolution No. 73065** fixed February 28, 2006 at 1:30 p.m., in the Council Chambers of the City of San José, City Hall, 200 East Santa Street, San José, California, as the date, time and place said Council would consider said further reorganization of McKee No. 128 to detach the same from the County Lighting County Services district; and

WHEREAS, the regular County assessment roll is utilized by the 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, the environmental impacts of this proposed reorganization were examined under the General Plan 2020 Environmental Impact Report, **Resolution No. 65459**, which Resolution became final on August 16th 1994, and this Council has considered and approved said Environmental Impact Report and **Resolution No. 65459** prior to taking action on this proposed reorganization; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 51757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposed 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 the completion of reorganization proceedings would result in the reduction of a pocket of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that existing and future urban development be located within cities.
6. The territory is contiguous to existing City limits.
7. The City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's Urban Service Area as follows:
 - A. No such conditions imposed.
8. The pre-zoning on the subject territory is proposed to be R-1-8 Single-Family Residence zoning designation. The City Council on January 11th, 2005 enacted an ordinance pre-zoning the subject territory.

WHEREAS, evidence pertaining to the proposed reorganization was presented to the City Council at the City Council's public hearings on this matter.

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

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation and reorganization of property designated “McKee No. 128”, more particularly described in Exhibit “A” and more particularly shown upon that certain map attached hereto as Exhibit “B,” both of which exhibits are incorporated herein by this reference;
2. That the following findings are made by the City Council for the City of San José:
 - a. That said territory is uninhabited and comprises approximately 1.19 acres.
 - b. That the annexation is consistent with the orderly annexation of territory within the City’s urban service area and is consistent with the City policy for annexation when annexed (providing City Services).
 - c. That the City Council has completed and determined that the project is covered under the San Jose 2020 General Plan, Environmental Impact Report, **Resolution No.65459**, which became final on August 16, 1994. This proposal is in compliance with the California Environmental Quality Act and the Council has considered and approved said Environmental Impact Report.
 - d. That the City Council on January 11th, 2005, enacted an ordinance pre-zoning the subject territory with the R-1-8 Single-Family Residence zoning designation.
 - e. That the territory is within the City’s urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
 - f. That 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. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
 - h. That the proposed annexation does not split lines of assessment or ownership.
 - i. That the proposed annexation is consistent with the City’s General Plan.
 - j. That the territory to be annexed is contiguous to existing City limits.
 - k. That the City has complied with all conditions imposed by the Commission for inclusion of the territory in the City’s urban service area.

- 3. That all affected local agencies that will gain or lose territory as a result of this reorganization have consented in writing to a waiver of protest proceedings.
- 4. That all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.
- 5. That said annexation is hereby ordered without any further protest of these reorganization proceedings pursuant to Section 56663(c/d) and is subject to the following additional terms and conditions: None.
- 6. That the City Council previously adopted **Resolution No. 72871** ordering the annexation and reorganization of McKee No. 128, but inadvertently did not detach said territory from the County Lighting County Services district due to a failure by the County of Santa Clara County Assessor's Office to notify the City of a need to detach said territory from said district.

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, and that the City Council hereby takes the additional following actions:

- 1. The City Council hereby reaffirms its ordering on August 30, 2005 that the territory designated as **McKee No. 128** be reorganized and organized to include the following changes of organization: (a) the following districts are detached: Central Fire Protection, Area No. 01 (Library Services) County Services and Sanitary District 2-3; and (b) the designated territory **McKee No. 128** shall be annexed into the City of San José. The City Council hereby further orders that the territory designated as **McKee No. 128** be reorganized and organized to include the following changes of organization: (a) the following districts are detached: County Lighting County Services district; and (b) reaffirms that the designated territory **McKee No. 128** shall be annexed into the City of San José. The City of San José, as conducting authority, reorganized such territory as indicated above (with or without notice or hearings), it being found and concurred in that the territory involved in the reorganization is uninhabited and all the owners of land within the territory have filed a written petition for the City Council to initiate said reorganization.

///

///

///

2. The City Council further hereby describes the exterior boundaries of the territory reorganized as all that real property in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

ADOPTED this 28th day of February 2006, by the following vote:

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

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

Attachment: Exhibits "A" and "B"

100% Ord.Res
SS