

SUPPLEMENTAL

COUNCIL AGENDA: 12-7-10
ITEM: 11.4



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: December 3, 2010

Approved

Date

12/6/10

COUNCIL DISTRICT: 9

SNI: None

SUPPLEMENTAL

SUBJECT: CAMBRIAN NO. 36 REORGANIZATION/ANNEXATION TO THE CITY OF SAN JOSE OF AN APPROXIMATELY 103 GROSS ACRE COUNTY ISLAND CONSISTING OF APPROXIMATELY 320 PARCELS GENERALLY BOUNDED BY CENTRAL PARK DRIVE TO THE NORTH, STATE HIGHWAY 17 TO THE WEST, CAMDEN AVENUE TO THE SOUTH AND UNION AVENUE TO THE EAST.

REASON FOR SUPPLEMENTAL

This memorandum transmits the Administration's updated recommendation that the City of San Jose annex the Cambrian No. 36 pocket, detach the area from all special districts, and enter into a service agreement with County Fire for the provision of fire service to the subject area.

In addition, since the Council action of October 26, 2010, several new letters have been submitted by public agencies. This memorandum transmits to the City Council and provides staff's response to the attached letters. The subject of the letters is San Jose's Proposed Annexation of the Cambrian No. 36 Island with and without detachment from the Santa Clara County Central Fire Protection District.

BACKGROUND

On October 26, 2010, the City Council voted 7-3-1 (Councilmembers Constant, Kalra, and Campos opposed; Chu absent) to adopt a resolution initiating proceedings and setting December

7, 2010, at 7:00 p.m. for a public hearing on the reorganization of territory designated as Cambrian No. 36 for the purposes of (1) the annexation of the territory; (2) the detachment of same from the appropriate special districts, County Lighting, West Valley Sanitation, and Area No. 01 (Library Services) County Service; and (3) the retention of the area within the Central Fire District of the Santa Clara County Fire Department.

ANALYSIS

The reports prepared for the Council meeting of October 26, 2010 recommended initiation of the annexation and included analysis of four options for the provision of fire services in the future upon annexation to San Jose. It is the Administration's aim to provide the same or higher level of service than the area currently receives as a result of annexation to San Jose. It was concluded that the Santa Clara County Fire Department was best suited to continue to serve the area from their two closest fire stations with response times in line with City of San Jose level of service targets.

The remaining question was which of the following arrangements was most appropriate for County Fire to serve an area within the boundaries of the City of San Jose.

- **No Detachment from Central Fire:** This option maintains the area within the Central Fire District (no detachment) with the Santa Clara County Fire Department providing first response as occurs today. (Original Administration Recommendation)
- **San Jose with Service Contract with County Fire:** Under this option, the City would enter into a contract for services with the Santa Clara County Fire Department, similar to what Campbell would do if they were to annex the area. (Alternative/Current Administration Recommendation)
- **San Jose with Auto Aid:** This option would detach the area from the Central Fire District with the Santa Clara County Fire Department providing first response in accordance with an Auto Aid agreement.

The concept of not detaching the Central Fire District at the time of annexation did raise some concerns with LAFCO staff as noted in their letter. As noted in this memo, staff is recommending that the annexation include full detachment from the Fire district based on the better information provided and continued discussions with the County Fire District administration with respect to a service agreement. This would result in no fire service changes to the subject area.

A "Study of Fiscal Impacts of Proposed Cambrian No. 36 Unincorporated Island Annexation" prepared by Keyser Marston Associates concluded that keeping the area within the Central Fire District was preferable financially to the Service Contract Option. As indicated in the table below, the greater portion of tax revenues the City would receive in the event of Detachment is

offset by the cost of providing fire service in contract with County Fire or by the City itself. There would be a very minimal additional cost to providing fire service if the area was not detached from Central Fire, as County Fire would continue to receive tax revenue in the form of a special assessment.

TABLE	<u>Scenario 1-</u> Central Fire Retained	<u>Scenario 2 –</u> Detached from Central Fire
<u>Property Tax Allocation</u>		
County of Santa Clara	11.3%	13.8%
City of San Jose	9.8%	15.9%
Central Fire District	12.7%	0.0%
County of Santa Clara Library	0.0%	0.0%
Other Taxing Agencies	<u>66.3%</u>	<u>70.3%</u>
Total	100%	100%
<u>Annual Impact to San Jose</u>		
Property Tax Revenues	\$123,000	\$201,000
Other Revenues	<u>\$442,000</u>	<u>\$442,000</u>
Total Revenues	\$565,000	\$643,000
Fire Protection Expenses	\$35,000	\$195,000
Other Expenses	<u>\$249,000</u>	<u>\$249,000</u>
Total Annual Expenses	\$284,000	\$444,000
Net Annual Revenues	\$281,000	\$199,000

PUBLIC AGENCY CORRESPONDENCE

In summary, the letter from the LAFCO Executive Officer does not indicate opposition to the City of San Jose’s annexation of the Cambrian No. 36 Pocket but expresses a number of concerns with annexation without the concurrent detachment from the Central Fire District as it is highly unusual and unprecedented and may have unforeseen or long-term consequences.

The City also received correspondence from the County Controller’s Office dated November 16, 2010 indicating the non-detachment from the Fire District necessitates the complete renegotiation of the City-County Tax Sharing Agreement. Following discussion with the Controller, the County acknowledged that the tax concern is more focused and indicated a willingness to negotiate a separate tax sharing agreement for this annexation.

The current Master Tax Sharing Agreement executed in November 1979 established how property tax revenues are allocated under different circumstances and that the non-detachment from the Fire District was not contemplated. In discussions with the County Controller, they

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SUBJECT: CAMBRIAN NO. 36

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acknowledged the unique circumstances in this annexation and a willingness to create a new tax sharing agreement rather than relook at the larger tax sharing agreements created in an era where annexations were generally of vacant land awaiting development vs. fully developed neighborhoods served by the County with urban services.

The County Fire Department provided a letter dated December 3, 2010 stating they are prepared to continue serving the pocket area and that they would prefer the annexation proceed with detachment and a service agreement with the City. The County Fire Department is scheduled to continue to receive property tax revenues for the next year as the subject annexation was not concluded in early November. Fire staff from the City and the County have met to work through the points of this agreement.

CONCLUSION

City staff has considered the short term and long term issues with detachment and non-detachment and after continued discussions between the relevant agencies has concluded that the detachment should occur in this annexation as is typical with annexations. Previous reports to the Council stated staff's recommendation for the annexation of the Cambrian No. 36 pocket, with a co-equal preference for detaching from the District or keeping the area within the County Fire District.

The Administration is prepared to respond to the issues raised in these and other letters as well as the public testimony that might be provided at the hearing.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For more information contact Laurel Prevetti at 535-7901.

Attachments: LAFCO Letter
County Controller Letter
County Fire Letter



November 15, 2010

Joseph Horwedel, Director
Planning, Building, and Code Enforcement Department
City of San Jose
200 East Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113

Re: San Jose's Proposed Annexation of the Cambrian No. 36 Island without Detachment from the Santa Clara County Central Fire Protection District

Dear Mr. Horwedel:

Based on the City Council action taken on October 26, 2010 regarding the Cambrian No. 36 island annexation, it appears that the City intends to annex Cambrian No. 36, but not detach it from the Santa Clara County Central Fire Protection District. As we indicated at prior meetings (on September 8 and September 22) with staff from the City and the Fire District, we have several concerns with the City's proposal to not detach the island from the Fire District. We would like to bring these issues to the City's attention so that they are considered prior to the City's final decision on Cambrian No. 36.

Ideally, annexation of islands should result in less confusion in service provision, increased governmental accountability, and more efficient and effective provision of land use planning and development services. However, we believe that the City's proposed approach of annexing Cambrian No. 36 without concurrently detaching from the Fire District, in many ways would result in the opposite. For example,

- Accountability for the provision of fire protection service including for establishing level of service, and long term planning for the city will rest with the City/ City Council, whereas the Fire District/ Board of Supervisors will be responsible for fire service in Cambrian No. 36 even though it is located within the City.
- Despite annexation to the City, residents and landowners will continue to have to deal with more than one local government agency (i.e. the City of San Jose for all municipal services except fire service and the Fire District for matters relating to fire service)

Cambrian No. 36 is not unique in the sense that there are potentially many areas within the City for which the quickest response may be from an adjacent fire department. Such situations are commonly dealt with through automatic aid agreements between fire departments throughout the county. The City's decision to address this issue in Cambrian No. 36 by not detaching the area from the Fire District is highly unusual and unprecedented and may have unforeseen or long-term consequences as described in the following scenarios:

Scenario #1: A precedent is set and other communities scheduled to be annexed to the City also decide that they would prefer to remain in the Fire District, resulting in more inefficiencies and service confusion long-term. Special arrangements/protocol will need to be established for

dispatching fire and emergency medical response personnel to such areas and for conducting annual building inspections. Conducting development review and/or issuing building permits may become more complicated in such areas.

Scenario #2: The City of San Jose decides after many years that it would like to provide fire protection service to Cambrian No. 36 and more comprehensively plan for the area. In order to do this, the City would like the area detached from the District. However, landowners and registered voters successfully protest the proposed detachment and thus the area remains in the Fire District complicating the City of San Jose's efforts to do long-term planning for the area.

Scenario #3: The City of Campbell decides to contract with another fire service provider, and terminates its contract with the Fire District. Cambrian No. 36 remains in the Fire District, but the District no longer has any fire stations nearby to serve the area. Therefore, the Fire District must contract with the City of San Jose or another provider for service to the area or detach the area from the Fire District at that time.

These are just some of the potential scenarios that would cause difficulties for the City of San Jose, the community, the Fire District, and LAFCO, should they occur.

LAFCO supports the annexation of islands and island annexations provide a unique opportunity to fully address the inherent inefficiencies of the islands. However, annexing Cambrian No. 36 without detaching it from the Fire District would result in the area continuing to be an island in terms of fire service provision, planning and development review, governmental accountability, and representation.

Rather than leaving the area within the Fire District, we encourage the City to consider other options such as detaching from the Fire District and formally contracting with the Fire District for fire service in this area. A contract could allow for desired service levels, while also providing greater transparency for all affected parties, greater long-term flexibility for the City, greater accountability and more direct representation for the community. We respectfully request that the City address this issue prior to making a final decision concerning Cambrian No. 36.

Please contact me at (408) 299-5127 or neelima.palacherla@ceo.sccgov.org should you have any questions. Thank you for your time and consideration.

Sincerely,



Neelima Palacherla, Executive Officer

Cc: Debra Figone, City Manager, City of San Jose
Ken Waldvogel, Fire Chief, Santa Clara County Central Fire Protection District
LAFCO Members

County of Santa Clara

Finance Agency

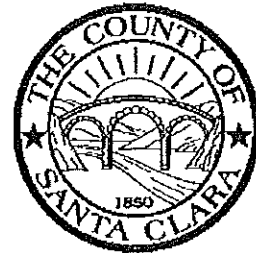
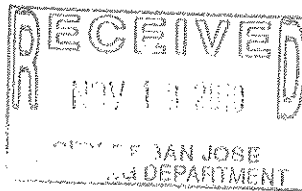
Controller-Treasurer Department

County Government Center

70 West Hedding Street, East Wing 2nd floor

San Jose, California 95110-1705

(408) 299-5200 FAX 289-8629



November 16, 2010

Mr. Joe Horwedel

Director, Planning, Building and Code Enforcement Department

City of San Jose

200 East Santa Clara Street

Tower, 3rd Floor

San José, CA 95113-1905

Dear Mr. Horwedel,

Re: Cambrian 36 Annexation

We learned from your office that the City is considering the annexation of the above mentioned area without detaching the area from Central Fire's service area. As such, the annexation cannot proceed with the simplified process set forth in the master property tax allocation agreement between the County and City, the "Resolution of Agreement Pursuant to Revenue and Taxation Code Section 99 for Exchange of Property Tax Revenues For Territories Affected By a Jurisdictional Change" executed back in November 1979 (Master Agreement). This is because the tax rate allocations upon which the Master Agreement is based assume that the City will provide fire service for any annexed territory.

The Master Agreement does not address situations where the City does not provide fire service. Therefore, the procedures listed in Revenue & Taxation Code Section 99(b) apply in this situation, and the tax rate allocations must be negotiated. We enclose Attachment A – the flowchart of the annexation procedures per R&T Section 99(b) – for your reference.

Per LAFCO's request, our office had provided some preliminary fiscal analyses regarding the proposed annexation with scenarios of detaching & without detaching the area from Central Fire's service area, that are subject to revenue negotiations.

We suggest the following options for your consideration that will avoid lengthy negotiation process and ensure revenue neutrality for all other taxing jurisdictions.

1. Annex the area in accordance with the Master Agreement:

We suggest the area be detached from Central Fire's service area, like all other annexations that you have processed. The annexation will therefore be covered by the Master Agreement

and there will be no revenue negotiation necessary. The City will have 16% revenue share in the area and will be required to provide fire service. It is then your option to subcontract the fire service to Central Fire. (Please see Option 1 of Attachment B)

2. Annex the area with procedures pursuant to R&T Code 99(b):

If the City chooses not to detach the affected parcels from Central Fire's service area, the County will coordinate the meetings with Central Fire and the other districts for the revenue negotiation process. In view of the high sensitivity of this annexation, the County, for this particular situation, will work with you to seek an approach to speed up the negotiation process. For example, the City can opt to receive only the share County Library used to receive. The benefit of this approach will then have no fiscal impact to other jurisdictions but the City will have 3% revenue share in the area. (Please see Option 2 of Attachment B). Since other taxing jurisdictions would not be affected, the only approvals required for this allocation would be resolutions from the City Council and the County Board of Supervisors. If the City will not take one of the above options, the County will work with you and explore other alternatives to avoid or minimize the impact to the other taxing jurisdictions.

Please review and call or email us if you have questions. Thank you.

Sincerely,



Vinod K. Sharma
Finance Director, County of Santa Clara

Enclosures:

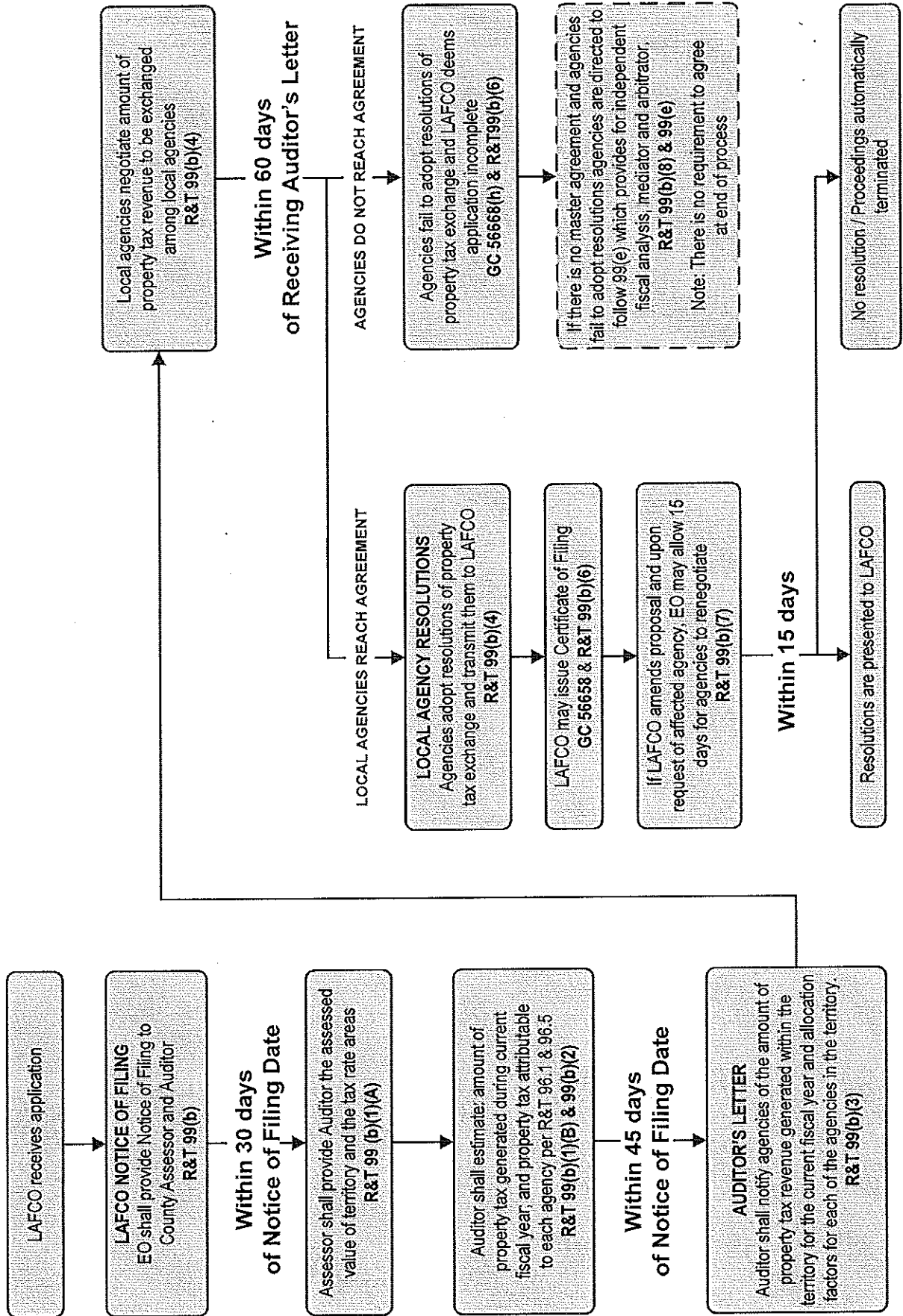
- Attachment A: Property Tax Exchange Process Flowchart per R&T 99
- Attachment B: Options of Tax Exchange for this particular annexation

cc:

Gary Graves, Executive, County of Santa Clara
Debra Figone, City Manager, City of San Jose
Neelima Palacherla, Executive Officer, Santa Clara LAFCO

PROPERTY TAX EXCHANGE PROCESS (Annexations & Detachments)

Where there is no master tax sharing agreement in place per R&T 99(d)



City of San Jose Proposed Cambrian Annexation Analysis

Attachment B

* This analysis only based on TRA 61-007 (the major TRA), similar concept will be applied to parcels located in TRA 61-003.

FY2011-12 1% Tax (assumed 2% annual growth) [TRA61-007 only]

\$ 1,077,000

From TRA	To City of SJ TRA	Affected agencies	Pre-Annexation		Option 1 Post-Annexation		Option 2 Post-Annexation	
			Post ERAF Tax Sharing Ratio	Post ERAF Estimated Amount	Post ERAF Tax Sharing Ratio	Post ERAF Estimated Amount	Post ERAF Tax Sharing Ratio	Post ERAF Estimated Amount
61-007	17-xxx	Santa Clara County	0.138236552	\$ 148,880	0.138236552	\$ 148,870	0.138236552	\$ 148,880
		Santa Clara County Library	0.026049137	28,050	-	-	-	-
		San Jose	-	-	0.158959468	171,200	0.026049137	28,050
		School districts	0.53654043	577,850	0.53654043	577,850	0.53654043	577,850
		Central Fire Protection Zone No. 1	0.155041488	166,980	-	-	0.155041488	166,980
		Others	0.144132396	155,240	0.166263553	179,080	0.144132396	155,240
			1.000000000	1,077,000	1.000000000	1,077,000	1.000000000	1,077,000
			IF Central Fire kept in the TRA: Possible negotiation: SJ bear all the costs, no impact to all other agencies					



**FIRE DEPARTMENT
SANTA CLARA COUNTY**

14700 Winchester Blvd., Los Gatos, CA 95032-1818
(408) 378-4010 • (408) 378-9342 (fax) • www.sccfd.org



Internationally Accredited
Agency

December 3, 2010

Willie McDonald, Fire Chief
San Jose Fire Department
170 West San Carlos Street
San Jose, CA 95113-2005

Chief McDonald,

Recently the Executive Director of LAFCO issued a letter expressing the organization's concerns regarding the proposed annexation by San Jose of the Cambrian No. 36 area. LAFCO has taken issue, for a number of reasons, with the concept of allowing the area to remain in the Central Fire Protection District.

This letter is to recap the results of a meeting held on November 5th, attended by you and I, along with our respective staff representatives. The meeting topic was specific to the provision of fire service to the Cambrian 36 area following annexation by the City of San Jose.

County Fire's understanding following that meeting is that San Jose would process the annexation in the normal fashion, including detachment from the Central Fire District, and that County Fire would continue to serve the area through a service contract with the City.

As we have expressed since the outset of discussions between our agencies, County Fire is willing and able to continue service to the Cambrian 36 pocket; our expectation is that our revenue stream would be preserved. While those goals could be achieved in a number of ways, I believe we agreed that a contract between San Jose and County Fire would provide the best outcome for all effected parties.

I look forward to continuing dialog leading toward a contract for service.

Sincerely,

Kenneth L. Waldvogel
Fire Chief

KLW:jmt

San Jose Cambrian/jmt/12.02.10

Organized as the Santa Clara County Central Fire Protection District

*Serving Santa Clara County and the communities of Campbell, Cupertino, Los Altos,
Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, and Saratoga*