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10/22/2009

TO: Local Agency Formation Commission

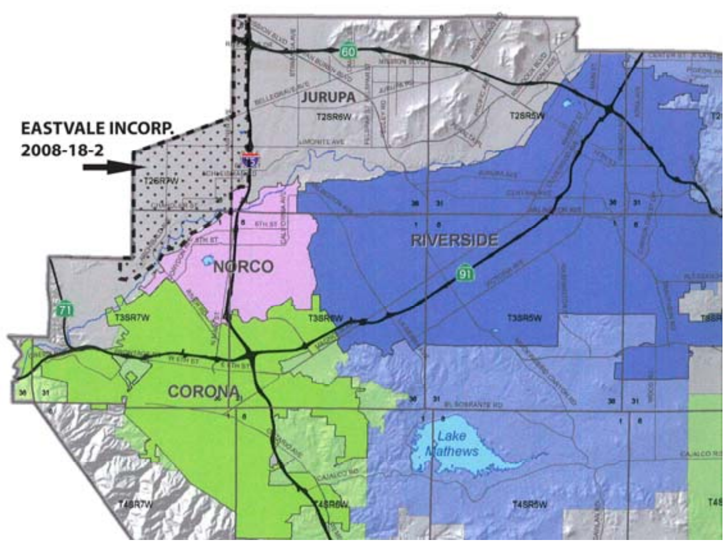
FROM: George J. Spiliotis, Executive Officer

SUBJECT: LAFCO 2008-18-2--REORGANIZATION TO INCLUDE INCORPORATION OF EASTVALE, CONCURRENT DETACHMENTS FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT AND DETACHMENT FROM THE JURUPA AREA RECREATION AND PARK DISTRICT

PRIOR AGENDAS/RELATED ACTIONS: Proposed incorporations of Jurupa and Mira Loma, 1990-91.

EXECUTIVE SUMMARY:

This report provides an overview of the proposed incorporation of Eastvale as the 27th city in Riverside County. Two alternative boundary scenarios were analyzed for fiscal viability. The preference of the applicant is the slightly smaller alternative, Scenario 1, which extends east to the I-15. Although the original proposal called for detachment from the Jurupa Area Recreation and Park District, the proponents are no longer pursuing that change of organization.



In order for the Commission to approve an incorporation, State law requires that it find the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. The primary tool for determining viability is the statutorily required Comprehensive Fiscal Analysis (CFA). The CFA shows general fund surpluses in the first three years with an accumulated reserve of approximately $4.8 million. Over the next seven years, however, the CFA projects general fund operating shortfalls. Reserves are relied upon to meet annual expenses.

Though the CFA concludes the incorporation of Eastvale is feasible based on the minimum statutory requirement, staff does not share that conclusion. In addition to the projected operating shortfalls, staff has concerns regarding recent changes and whether the analysis can be considered a conservative forecast of revenues and expenses.

A competing incorporation proposal has also been filed for Jurupa Valley, east of Eastvale. The Eastvale and Jurupa Valley proposals both include commercial and industrial territory along the Interstate 15 corridor. The Jurupa Valley proposal is tentatively scheduled to come before the Commission in February or March of next year. Although on its face, the eastern boundary of I-15 is equitable, it appears at this time it would not provide for fiscal viability of the Jurupa Valley proposal. Based on the current Eastvale CFA and the Public Review Draft of the Jurupa Valley CFA, there is not sufficient revenue to support two cities. The staff recommendation is to deny the proposal or, alternatively, continue the proposal so it is heard concurrently with Jurupa Valley or hold the proposal in abeyance for a period of time to see if economic or other factors change significantly enough to warrant an update to the CFA.

BACKGROUND:

The concept of incorporation is not new to this area. In late 1989, a proposal for the incorporation of the greater Jurupa Valley was filed, encompassing all inhabited communities north of the Santa Ana River and the dairy lands of Eastvale. A few months later a competing incorporation proposal was filed for the community of Mira Loma. The Mira Loma proposal was entirely within the proposed Jurupa boundaries, including all territory west of Country Village Road and Van Buren Blvd.

Eastvale landowners representing approximately 80 percent of the acreage west of Wineville Road petitioned LAFCO to remove that area from both incorporation proposals. Additionally, approximately 200 residents of the Swan Lake Mobile Home Park, located between Hamner Avenue and I-15, requested removal from both proposals.

At that time, staff recommended approval of the larger Jurupa proposal, as the fiscally superior proposal, excluding the majority of the Eastvale area. Ultimately, the Commission granted the petitioners requests, removing all land south of Bellgrave Ave. and west of Wineville Road from both proposals. In 1991, the Commission conditionally approved both incorporation proposals, excluding the Eastvale area. The conditions provided that if both proposals were approved by voters within their respective boundaries, Jurupa would incorporate without the Mira Loma area. Ultimately, voters rejected both proposals by wide margins in the face of a declining economy.

GENERAL INFORMATION:

APPLICANT: The proposal has been initiated by petition of registered voters of Eastvale.

LOCATION: The proposed incorporation area as originally petitioned is generally north of the Santa Ana River, south of the Riverside-San Bernardino County line, east of the City of Chino (San Bernardino Co.)

and River Road and west of Wineville Road. This maximum boundary configuration is referred to in the CFA and in this report as Scenario 2. An alternative boundary, using Interstate 15 as the eastern boundary rather than Wineville, was also evaluated. The chief petitioners have identified this slightly smaller alternative boundary, referred to as Scenario 1, as the preferred alternative. The staff analysis is generally limited to this preferred alternative.

POPULATION: The population of Eastvale as of July 2008, as represented by boundary Scenario 1, is estimated to be 41,225. The population estimate for Scenario 2 is only slightly larger at 42,233.

REGISTERED VOTERS: At the time of circulation of the petition, the Registrar reported 11,650 voters within Eastvale (Scenario 2).

AREA: The area of the proposed city is approximately 13.1 square miles under Scenario 1 and 15.9 square miles for Scenario 2.

CEQA DETERMINATION: The Commission is the lead agency for any incorporation. BonTerra Consulting was retained by LAFCO to conduct an initial study of the incorporation pursuant to CEQA. The resulting analysis indicates the proposed incorporation has no significant environmental impacts. Therefore, it is recommended that the Commission adopt a Negative Declaration for the incorporation. The Initial Study/Negative Declaration was previously transmitted to Commissioners for review.

PROPERTY TAX EXCHANGE: The Commission is required to determine the amount of property taxes transferred to a new city. Incorporation of a new city does not increase property taxes to affected property owners. New cities receive a share of existing property taxes from other agencies in correlation to services that are to be transferred to the new city.

When only a portion of the services provided by an agency are being transferred to a new city, the transfer is determined pursuant to a formula defined in Government Code Section 56810. This formula is applicable to general fund supported services transferred from the County to the new city. The transfer is the product of two numbers, a)the net cost of services to be transferred and b) the proportion of County General Fund property taxes relative to all general purpose revenue, also known as the “Auditor’s Ratio”. The resulting product, as determined by the Commission, establishes the Base Year property tax transfer. The Base Year net cost and property tax transfer calculations are outlined in Tables 5.4 and 5.5, respectively, in the CFA. The net cost of transferred services, $4,095,394, is multiplied by the Auditor’s Ratio, .3822293676, to yield a Base Year general fund property tax transfer of $1,565,380.

The Base Year transfer is then adjusted for subsequent changes in assessed value each year. In addition to the General Fund transfer, the city would receive all of the Structural Fire Tax generated within the affected area since it will assume responsibility for all fire protection services.

EXISTING CONDITIONS: The Eastvale area has been a rapidly urbanizing unincorporated community located at the northwestern corner of Riverside County. The community includes both single-family and multi-family residential uses. Significant commercial development has occurred over approximately the past three years along I-15. The originally petitioned area included the commercial/industrial corridor along both sides of Interstate 15 at the eastern edge of the proposal. The preferred Scenario 1 includes only the western half of this corridor. Virtually all urban development within the community has occurred in the current decade. Eastvale has rapidly transitioned from an agricultural area dominated by dairy farms to a suburban community. Since the 2000 Census, the population has grown from approximately 4,500 to over 41,000. Only a small percentage of the former dairy uses remain.

LAND USE PLANS: The County's General Plan calls for continued urbanization of the area, including continued development of the remaining vacant lands adjacent to I-15. Among the first actions required of a new city council is to adopt all County ordinances, including those establishing zoning. State law allows newly incorporated cities 30 months to adopt their general plans. Therefore, incorporation itself has no direct impact on land uses.

SIGNIFICANT ISSUES:

REQUIREMENT FOR FISCAL VIABILITY: The determination of fiscal feasibility is typically the central issue in the evaluation of an incorporation proposal. The following sections analyze different aspects of the fiscal issue.

Statutory Requirements: State law prohibits the Commission from approving an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Section 56800 requires the Executive Officer to prepare, or cause to be prepared, a Comprehensive Fiscal Analysis (CFA) of incorporation.

Statutorily, the CFA is part of the executive officer's report to the commission. In this case, staff has additional comments and analysis of the published Public Hearing Draft CFA that must be taken into consideration. The CFA and staff analysis are the bases for the Commission's determination of feasibility.

Policy and Approach: Commission Policy allows the CFA to be managed in one of two ways. Incorporation proponents can directly hire and manage a consultant to prepare the draft CFA. Under this scenario, proponents are directly responsible for consultant selection, payment, and the timing of the analysis. Alternatively, LAFCO can retain a consultant to prepare the CFA with funds deposited by the proponents. LAFCO manages the consultants work as long as funds are on deposit. The first model was utilized for the Eastvale CFA.

Several Commission policies guide the development and evaluation of the CFA. Some of the most significant ones are listed below:

> *<u>CFA Requirements</u>-In order to minimize the likelihood of forming a city that cannot sustain itself, the following principles shall govern the preparation of the CFA:*
>
> - *Costs of services should be based upon existing levels of service.*
> - *All revenue estimates/projections shall be conservative.*
> - *Extreme care shall be taken to ensure that all costs are accounted for.*
> - *Costs for functions that are not being directly assumed from another agency (e.g. the County) should use similarly sized cities as a basis for estimates. This is especially applicable to administrative functions.*
> - *While State law only requires an analysis of the city's first three years, the Riverside LAFCO requires an analysis projecting out a minimum of eight years. Many State subventions for new cities are based on a calculated population of three times the number of registered voters for the first seven years after incorporation. This formula, which typically greatly exceeds actual population, provides a temporary source of enhanced revenue-a "bonus" to help new cities get started. The purpose of the increased time frame is to capture the fiscal status of the city at the point when state subventions are based upon actual population. This analysis allows the Commission and the community to gauge the long-term viability of incorporation.*
> - *Section 56720 requires that the Commission, in approving an incorporation, find that the new city will have sufficient revenue to provide public services and facilities and a "reasonable reserve". Consistent with OPR Guidelines the CFA should include an appropriation for contingency of at least 10 percent and an additional reserve of 10 percent.*

<u>Contingency and Reserves</u>: As noted above, the Commission cannot approve an incorporation unless it finds that the new city will have sufficient revenues to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation. Practical implementation of this requirement exists in both adopted Commission Policy and the OPR Incorporation Guidelines. Consistent with the OPR Guidelines, Commission policy requires an annual contingency of 10 percent (OPR recommends 10-20%) as well as a reserve of 10 percent. The contingency acts as a cushion or hedge against variations between actual costs and revenues and those projected in the CFA. The CFA conservatively assumes the full amount

of contingency is appropriated and expended each year. It is not carried over from year to year in the CFA model. A 10 percent operating reserve is also identified. That 10 percent operating reserve and any remaining surpluses are assumed to be carried over from year to year in the CFA.

OPR Guidelines explain the necessity for both an appropriation for contingency and a reserve as follows:

- A new city has no historical track record on the cost or level of services required to meet the expectations of the newly incorporated community.
- Unanticipated expenditures could occur due to major disasters, emergencies, liability claims, and litigation settlements.
- Local finances may be subject to changes based on the State’s budget.
- Changing economic conditions could result in a decrease in general fund revenues.
- Funds may have to be budgeted for non-road-related capital improvement projects. As the new city grows in staffing and assumes services from the county and outside contractors, there will be a need for new facilities, vehicles and other major equipment.

<u>Preparation of the Eastvale CFA</u>: The proponents have retained Willdan Financial (formerly MuniFinancial) to prepare the required fiscal analysis. Preparation of the CFA is an iterative process that starts with data being provided by the current service providers, primarily the County of Riverside in this instance. Revenue data is also collected from the County and other agencies, such as the State Board of Equalization. As required by State law, cost and revenue data collected represent actual figures for fiscal year 2007-08, referred to as the base year. Various assumptions are made to project base year costs and revenues throughout the ten-year study period.

Based on this initial data collection effort, an Administrative Review Draft is prepared for review by the agencies providing the data and LAFCO staff. Changes are made and a Public Review Draft is released for review by the general public and local government agencies. Based on comments received, responses are prepared and additional changes may be made to produce the Public Hearing Draft CFA, which is currently before the Commission. The Public Hearing Draft also includes either calculated or negotiated mitigation payments to the County, pursuant to the “Revenue Neutrality” statute (discussed in more detail below).

An Administrative Review Draft CFA for Eastvale was submitted April 1st, 2009. Many comments from County and LAFCO staff were transmitted to the consultant from mid-April through mid-May. A Public Review Draft CFA was released and published on the Commission’s website July 10th. Comments from public agencies, residents and property owners were received through August 10th. The comments resulted in several revisions to the analysis reflected in the Public Hearing Draft CFA submitted by the proponents on October 2nd. The CFA, comments received on the Public Review Draft and Responses to Comments were all posted on the Commission's website.

During the preparation of the Public Review and Public Hearing Drafts, several changes in assumptions were made that were not requested by LAFCO staff or other public comments. Staff has not had an opportunity to validate many of latter changes. The changes have resulted in a significant decrease in costs when compared to the earlier draft. This does impact the level of confidence in the overall analysis. However, the consultant has provided some documentation of these changes. This issue is discussed further in the CFA Results Section.

Revenue Neutrality: The mid 1980's and early 90's saw a wave of incorporations throughout the State. From 1987 through 1992 alone, 25 new cities were formed. In virtually all cases, incorporations were fiscally successful due to relatively large amounts of sales tax and to some extent transient occupancy tax generated within those communities. In most cases, revenues generated were far in excess of the costs to continue to provide services to the areas. The new cities' gains were losses to the host counties. The continued discretionary revenue losses were seen by many counties as a threat to the future provision of both municipal and countywide services.

In 1992 the Legislature passed legislation designed to eliminate or reduce the negative impact of incorporations on counties. Section 56815 generally provided that a commission cannot approve an incorporation unless the revenues to be transferred from the county to the new city are substantially equal to the cost of services to be transferred. In other words, no more revenue windfalls for new cities. The "Revenue Neutrality" law became effective January 1, 1993, and had and immediate and powerful chilling effect on new city formations. Over the next six years, only five incorporations occurred Statewide.

Section 56815 and the OPR Guidelines provide the methodology for determination of the impact of incorporation upon the county. Very simply, it is the difference between the cost of services to be transferred and the revenues to be transferred. This calculation is made based on "base year" figures. The result represents the annual loss to the county resulting from incorporation.

Section 56815 provides two instances whereby LAFCO can approve incorporation where there is a net impact to the county, as follows:

1. The county agrees to a lesser mitigation (typically achieved through negotiation with incorporation proponents). This typically involves payments by the city to the county over some fixed period of time.

2. LAFCO imposed terms and conditions “adequately” mitigate the negative fiscal impact to the county.

In either of the two instances above, mitigation must be incorporated into the Commission terms and conditions of approval. These terms and conditions, in turn, become part of the official ballot measure presented to voters, thereby binding the city to those terms.

Based on the calculation explained above, the incorporation of Eastvale would have a net negative impact upon the County of nearly $1 million annually. County staff and Eastvale proponents met at least four times to discuss alternative mitigation to the County. Additional discussion took place as late as October 1st. As of this writing, it appears County staff and proponents have tentatively agreed to a methodology to determine mitigation payments to the County. An estimate of those payments has been incorporated into the CFA. Consideration of approval of a formal agreement by the Board of Supervisors is scheduled for October 20th.

RESULTS OF THE CFA:

Summary Conclusion of Report: The conclusion of the submitted Public Hearing Draft CFA is that incorporation of Eastvale (Scenario 1) is fiscally viable. This is based on the minimum statutory requirement over the City’s first three years noted previously. However, as noted below, subsequent years show operating general fund shortfalls.

Based upon an effective date of July 1, 2010, the analysis indicates Eastvale would experience a general fund surplus of approximately $3.7 million in the initial or “transition” year. A transition year surplus is typical for virtually all incorporations. From the effective date of incorporation through the end of that first fiscal year, the County is required to continue providing municipal services without payment. During this period the new city receives many significant revenues. This provides the new city with a decidedly positive cash flow by fiscal year end to comfortably manage start-up costs such as leasing office space, beginning staff recruitment, including consultants, and hiring initial management staff to prepare required filings and other administrative necessities. (It should be noted that the City is required to reimburse the County for those transition year services over the subsequent five year period.)

The CFA shows operating surpluses of 6.8 and 5.2 percent for the first two “full” fiscal years (FY 2011-12 and 2012-13), respectively. By the end of that third year, the City is projected to have built a general fund operating reserve of $4.8 million.

In Year 4, the CFA shows a general fund operating shortfall of $1.1 million, or 9.7 percent of expenditures. Annual shortfalls continue through the end of the study period. The City would rely upon the accumulated reserves from the first three years in order to meet annual obligations.

As is typical for newly incorporating cities, the Road Fund shows a substantial surplus throughout the study period. The Structural Fire Fund also shows a surplus throughout the study period. This is unusual. On a Countywide basis, the amount of structural fire tax generated is insufficient to cover the full cost of fire protection. The County and virtually every contract city must subsidize fire protection with general fund dollars. Due to the location of fire stations in the area and the method the County uses to determine contract costs, there is substantially more structural fire tax generated in Eastvale (Scenario 1) than required to contract for fire protection. Structural Fire Taxes and Road Fund revenues (Highway Users Tax, etc.) are restricted funds that may only be used for those specified purposes.

<u>Concerns Regarding the CFA</u>: As noted above, several changes have been made in the latest draft (Public Hearing Draft CFA) that have not received full review. These modifications did not result from comments received. Some of the changes and other concerns are summarized below:

- A revenue transfer from the Road Fund to cover administration of the contract with the County and city transportation engineering and planning expenditures is included. This amount has increased eight-fold since the Public Review Draft to over $300,000 annually. It is now based on a percentage (14.5 percent) of road fund *revenues*, which are approximately double the road fund expenditures. There is no logic presented to base the transfer on a percentage of revenues rather than costs. There is no explanation as to how this figure relates to actual costs.
- A Road Fund transfer to the General Fund of $302,000 is shown in the Transition Year, when no other Road Fund expenses are shown and services are still being provided by the County.
- Code enforcement staffing reduced from earlier drafts. Now 65% less than identified County base year staffing levels.
- There is no longer a Building Inspector position beyond the transition year. There is only a half-time Building Official assumed in years 2 through 10.
- Administrative Services (human resources, payroll, etc.) has been cut drastically, by half or more. In the later years of the analysis, positions have been cut from 8 FTEs to 2.5 FTEs.
- City Manager office staff reduced.
- Development Services Counter Technician position eliminated.
- Principal Planner position eliminated.
- Only one Planner assumed throughout the entire ten-year study period.
- Engineering staff has been reduced. The maximum staffing throughout the study period is one City Engineer, .25 FTE Engineering Inspector and .25 FTE Traffic Engineer.
- The City Clerk staffing has been reduced significantly in the middle and later years, from four to two in Years 8 through 10.

- Total staffing (including contract positions) has been reduced substantially from the Public Review Draft. In Year 4 staffing was reduced from 19.85 to 13.9 FTEs. In Year 8 the staffing went from 30.55 to 14.4 FTEs
- The City Manager's salary is assumed to be $150,000, which is extremely low.
- The Assistant to the City Manager's full-time salary has been reduced from $90,000 to $35,000 and the position has been reduced from full-time to half-time.
- The total benefit rate has been reduced from 45 percent of salaries to 35 percent. This might be reasonable, but is low in comparison to other jurisdictions.
- City Attorney time is minimal, assumed at .4 FTE throughout the study period.
- Revenue transfer of five percent ($85,000-183,000) of fire costs annually to general fund for administration of the fire contract. This is equivalent to approximately 15 percent of the combined City Manager's and Administrative Services budgets. The contract with the County should require minimal administration.
- It is now assumed that leased City Hall offices initially will not include council chambers. Public meetings are assumed to be held in a school for the first four years.

As indicated in the CFA (p. 21) staffing was reduced from the earlier draft as a cost saving measure in response to reduced revenue estimates. Many of the concerns noted above might be reasonable budgetary responses to declining revenues. While this is an appropriate strategy for budgetary purposes, a fiscal impact or feasibility analysis requires an independent evaluation of costs and revenues. Tying costs to available revenues will automatically yield results that are in balance or close to balanced. <u>With staffing and other costs cut to such minimal levels, staff is very concerned that the CFA no longer represents a conservative analysis as required by Commission policy</u>.

<u>BOUNDARIES</u>: A competing proposal, the Incorporation of Jurupa Valley, has also been filed. The Eastvale and Jurupa Valley proposals overlap, each including commercial and industrial territory along the Interstate 15 corridor. Though the proposals were filed several months apart, data collection and preparation of the two CFAs were performed concurrently due to the fiscal interdependence between the two proposals.

Both incorporation proposals analyzed multiple boundary scenarios. Two boundary scenarios were analyzed in earlier drafts of the Eastvale CFA. The boundary primarily addressed in this report (Scenario 1) includes all unincorporated territory east of Prado basin, north of the Santa Ana River and west of I-15. Scenario 2, the proposal included in the original petition, extended one-half mile east of I-15 to Wineville Road. The proponents have indicated their preference for Scenario 1.

Jurupa Valley has also analyzed multiple boundary alternatives. The largest of three alternatives analyzed extends one-half mile west across I-15 to Hamner, north of Limonite. This configuration (Alternative 3) is the boundary filed with the Commission and also represents the proponents' preferred alternative. It is the only boundary alternative shown to be potentially feasible in the Jurupa Valley Public Review Draft CFA. Therefore, based upon the current CFAs, approval of the Eastvale incorporation would render the Jurupa Valley proposal infeasible and preclude its approval.

The Jurupa Valley proposal is tentatively scheduled to come before the Commission in February of next year.

TAXES AND ASSESSMENTS: No additional general taxes, special taxes or assessments are proposed in conjunction with the incorporation. Continuation of taxes, assessments and charges associated with any landscape and lighting maintenance districts or other assessment districts should be a condition of any approval of this proposal.

County Service Area 152: CSA 152 has been used in the past by the County to fund programs to comply with the National Pollutant Discharge Elimination System (NPDES) under the Federal Clean Water Act, such as street sweeping. Many cities in the County have annexed to this CSA and continue to levy assessments for that same purpose. No changes are proposed for CSA 152. If Eastvale incorporates, this CSA would remain in place as an option for the new city to fund NPDES compliance activities.

DETACHMENT FROM COUNTY WASTE RESOURCES MANAGEMENT DISTRICT (RCWRMD): On March 24, 1994, the Commission approved the formation of the RCWRMD as a separate financial and legal entity to operate and finance solid waste facilities in Riverside County. The District became effective on May 2, 1994. As part of the Commission's action, it determined that future annexations to cities (incorporations are implied) should detach from the RCWRMD unless those cities have annexed to the District. This is based on an understanding between the County and the COGs that annexation of cities to RCWRMD will be accomplished in an organized fashion to ensure appropriate representation on the governing board of the District. Therefore, staff will recommend concurrent detachment from the RCWRMD if incorporation is approved.

COMMENTS FROM AFFECTED AGENCIES/INTERESTED PARTIES: Numerous comments have been received pertaining to the fiscal analysis and the proposal in general. Those comments received during the public review period for the CFA have been previously transmitted to the Commission with the related responses. Additional comments are attached to this report.

PROCEEDINGS FOLLOWING COMMISSION ACTION: Actions and procedures for annexations and other boundary changes are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Section 56000 states that the Act "provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts."

Section 57000 et seq. sets forth the procedure following approval of a proposal by the Commission. If disapproved by the Commission, no further proceeding shall take place. If approved, an election would be called by the Board of Supervisors. The ballot would include the question of incorporation, inclusive of any terms and conditions established by the Commission, and the election of the first city council members. The ballot will also ask voters to decide whether future council elections will be conducted by district or at large. This statutory process cannot be altered by action of the Commission or any other entity.

EFFECTIVE DATE: CKH requires the Commission to establish a specific effective date for a new city with certain limitations. The effective date must be included in the terms and conditions of any approval of the proposal. The effective date assumed in the CFA, July 1, 2010, is recommended if the Commission decides to approve the incorporation. It should be noted that today is the last Commission hearing date at which the incorporation could be approved in time for an April 13, 2010 election and, consequently, the last day to achieve the July 1, 2010 effective date.

FINDINGS, DETERMINATIONS, TERMS AND CONDITIONS: In recognition of the grave and almost irreversible nature of incorporations, the Legislature has placed a higher standard of Commission review for their approval compared to other types of proposals. For example, and as noted earlier, the Commission must make a specific finding regarding fiscal viability. Furthermore, pursuant to Section 56803, if the Commission approves the incorporation it must accept or reject each of the findings and recommendations made in the Executive Officer's report and the Comprehensive Fiscal Analysis. If the Commission rejects a finding or recommendation, this Section requires findings to be made by the Commission that present the basis for any rejection.

If the Commission approves this proposal, in addition to legally required findings noted above, there are numerous determinations, terms and conditions that must be incorporated into the Commission action. These are critical elements of the Commission's action that determine how the matter is set for election, the form of government of the new city, the transfer of taxes and assessments, mitigation payments to the County, the disposition of facilities and the first actions of the newly elected council. The Commission resolution ordering incorporation and the approved terms and conditions are referenced in the ballot question. A few determinations, terms and conditions merit some discussion below.

As noted earlier, the Board of Supervisors is expected to take action on a Revenue Neutrality agreement on October 20th. Assuming the agreement is approved, the terms and conditions should incorporate the mitigation included in this agreement by reference.

Perhaps the most non-standard term and condition is one addressing regional issues. If the Commission approves the proposal, staff is recommending requiring the new city to initiate efforts to participate in regional programs. By facilitating participation in WRCOG, the MSHCP, RCTC and the TUMF program, continuity in these programs can be maximized and the new city can participate in regional planning and take advantage of regionally available revenues. The condition is consistent with consideration of regional growth goals and policies as permitted by Section 56668.5.

CONCLUSIONS:

As noted earlier, the primary factor for the Commission to consider in almost any incorporation is financial feasibility. In this instance, the fiscal issue is further complicated by boundary considerations of two competing incorporation proposals.

Over the past three years, staff has spoken many times at various forums in the Jurupa and Eastvale communities on the topic of incorporation. On numerous occasions I have stated that I would not recommend approval of one incorporation proposal if the other community would not be able to incorporate. If only one of the two communities incorporated, the other would be left as an isolated, albeit large, unincorporated service island.

On its face, using I-15 as a line of demarcation between the two communities appears equitable. However, it appears at this time it would not provide for fiscal viability of the Jurupa Valley proposal. Based on the current Eastvale CFA and the Public Review Draft of the Jurupa Valley CFA, there is not sufficient revenue to support two cities.

Staff has noted several concerns with the current CFA. Without any adjustment, the feasibility demonstrated by the CFA is tenuous, at best. The CFA indicates the minimum statutory requirement for feasibility has been met, however, beyond the first three years, positive annual balances are entirely dependent on reserves. Even more liberal taxable sales assumptions ($340 per sf), as argued in the CFA, would not change this situation until Year 7. If incorporation were to occur, the minimal staffing assumptions and prolonged annual operating deficits demonstrate there is little if any advantage to the community presented by cityhood. Staff cannot support a finding of feasibility.

Based on the inability to confidently find the proposal is feasible and the fact that Jurupa Valley cannot be found feasible if Eastvale is approved, staff is recommending denial of the Eastvale Incorporation. Alternatively, the Commission may also consider holding the matter in abeyance for an extended period. If economic or other factors change significantly enough to update the CFA, holding the matter in abeyance would preserve the initiating petition, relieving the proponents of the necessity of recirculating the petition.

SPECIFIC RECOMMENDATIONS:

Based on the factors outlined above, IT IS RECOMMENDED that the Commission:

1. Deny the Incorporation of Eastvale or, alternatively, continue the proposal to be heard concurrently with the Jurupa Valley Incorporation or hold the matter in abeyance for a period not to exceed three years.

If the Commission approves the proposal, if must make findings pursuant to Government Code Section 56803 that present the basis for rejecting the staff recommendation. In addition, the Commission should take the following actions:

1. Find the Commission, as lead agency pursuant to CEQA, has prepared an initial study on the proposed reorganization. Based upon the entire record before the Commission, including the initial study, the Commission finds there is no substantial evidence that the proposal will not have a significant effect on the environment. The Commission adopts a negative declaration and finds that the adoption of a negative declaration reflects the Commission's independent judgment and analysis as lead agency.

2. Approve LAFCO 2008-18-2—INCORPORATION OF EASTVALE AND CONCURRENT DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT as depicted in the attached Exhibit, subject to the recommended terms and conditions attached to this report.

3. Make the findings and determinations attached to this report.

4. Pursuant to the Cortese Knox Hertzberg Local Government Reorganization Act of 2000, order the reorganization subject to confirmation of the voters and request the Board of Supervisors to call an election on the subject reorganization, subject to the attached findings, determinations, terms and conditions.

Respectfully submitted,

George J. Spiliotis
Executive Officer

FINDINGS AND DETERMINATIONS

Based on the entire record of the Commission's proceedings, the Commission hereby makes the following findings and determinations.

a. Pursuant to Government Code Section 56720(a), find the reorganization including incorporation of the proposed City of Eastvale is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including but not limited to, the policies of Government Code Sections 56001, 56300, 56301 and 56377, and the policies of the Riverside County Local Agency Formation Commission.

b. The Commission has reviewed the spheres of influence of affected local agencies and finds the reorganization is consistent with those spheres of influence.

c. Find the Commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800.

d. Find the Commission has reviewed the Executive Officer's staff report and recommendations prepared pursuant to Government Code Section 56665 and the testimony presented at its public hearings.

e. Find the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation.

f. Pursuant to Section 56886, determine that existing agencies cannot provide needed services in a more efficient and accountable manner. Incorporation will allow for increased local accountability. Contracting services such as police and fire protection will still allow the city to take advantage of economies of scale associated with a large organization, while allowing public service levels and priorities to be established locally.

g. Pursuant to Section 56810, determine the base year property tax to be transferred from the County General Fund to the City of Eastvale is $1,565,380. The City shall also receive all Structural Fire Protection property taxes generated within the subject area. The base year amount shall be adjusted by the county auditor to the fiscal year in which the new city receives its initial allocation, in accordance with Revenue and Taxation Code Section 95 et seq.

h. Determine that a provisional appropriations limit of $13,938,809 is established pursuant to Government Code Section 56812. A permanent appropriations limit will be proposed by the city council and established by the voters of the new city at the first municipal election held following the first full fiscal year of operation.

i. Pursuant to Section 56815(c), determine that the amount of revenue transferring from the county to the new city is not substantially equal to the cost of services similarly transferred. Nevertheless, the negative fiscal impact shall be mitigated by the terms of an agreement approved by the Riverside County Board of Supervisors on October 20, 2009 providing for mitigation payment from the City of Eastvale to the County over a specified period of time. Furthermore, such agreement is incorporated by reference in the terms and conditions adopted by this Commission.

j. The name of the city shall be the City of Eastvale.

k. The City shall be incorporated as a general law city.

l. The City shall be governed by a five member city council elected at large.

m. The City shall have the City Manager form of government with a five member city council elected at large at the same election as the incorporation question.

n. The city council shall appoint a city manager, who shall appoint a city clerk and city treasurer.

o. The question of incorporation, all related boundary changes, and all terms and conditions shall be presented as one question on the ballot and in accordance with Sections 57133 and 57134.

p. Pursuant to Section 57118, the election shall be held within the entire territory proposed to be reorganized.

q. Pursuant to Section 57116, the election to confirm the question of incorporation shall also present the question of whether members of the city council in future elections shall be elected by district or at large.

r. Determine the proposed reorganization is legally inhabited.

s. The reasons for the proposed reorganization include the following:

- Increased local control and accountability for decisions regarding the community
- Promote orderly government boundaries
- Retain local revenues for use within the community
- Increase opportunities for residents to participate in civic and governmental activities.

t. The regular county assessment roll shall be utilized.

u. The affected territory will not be taxed for any existing bonded indebtedness of any agency whose boundaries are changed as a result of this reorganization. Any existing bonded indebtedness of the County or any other affected agency whose boundaries are not changed shall remain in effect.

TERMS AND CONDITIONS

a. The effective date of the incorporation shall be July 1, 2010.

b. The election and terms of office for members of the City Council shall be subject to Government Code Sections 57377-57379, inclusive.

c. The disposition of public facilities, land and fees shall be subject to negotiation between the County of Riverside and the new City.

d. Pursuant to Government Code Section 56815, the City shall be required to make payments in order to mitigate the impact of incorporation on the County. Payment shall be made as specified in the agreement approved by the Board of Supervisors on October 20, 2009 and incorporate by reference herein.

e. Pursuant to Government Code Section 57376, the City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances previously applicable shall remain in full force and effect as City ordinances for a period of 120 days thereafter, or until the City Council has enacted ordinances superseding them, whichever shall occur first. Enforcement of continuing County ordinances in the incorporated area shall be with the City, except insofar as enforcement services are furnished in accordance with Government Code Section 57384.

f. Pursuant to Section 57384, the County of Riverside shall continue to furnish all services provided to the area prior to incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation becomes effective or until the City Council requests discontinuance of the services, whichever occurs first. The new City shall be obligated to reimburse the County Riverside for the net cost of services provided in accordance with the provisions of Section 57384(b).

g. In accordance with Section 57385, all roads and highways or portions thereof within the subject territory, which had been accepted into the County road system prior to the first signature on the petition initiating incorporation, shall become city streets on the effective date of incorporation.

h. Notwithstanding subdivision (b) of Section 57385, all roads accepted into the county road system subsequent to the first signature on the petition initiating incorporation and prior to the effective date of incorporation shall become city streets on the effective date of incorporation.

i. In accordance with Government Code Sections 56886(t), the City shall have the authority to continue the levying and collection of any previously authorized charge, fee, assessment or general or special tax levied within the subject territory by the County or other subject agency, including, but not limited to, transient occupancy tax, franchise fees, business license fees, property transfer tax, and sales and use tax.

j. In accordance with Section 56886(u), the authority and responsibility for special assessment districts associated with any County Landscape Maintenance District shall be transferred to the new city upon incorporation.

k. The Eastvale Incorporation Committee shall defend, indemnify, and hold harmless the Riverside County Local Agency Formation Commission ("LAFCO"), its agents, officers, and employees from any claim, action, or proceeding against LAFCO, its agents, officers, and employees to attach, set aside, void, or annul an approval of LAFCO concerning this proposal.

l. At the earliest possible time after the effective date, the City shall take necessary actions to participate in regional agencies, plans and programs, specifically including Western Riverside Council of Governments, Riverside County Transportation Commission, Multi-Species Habitat Conservation Plan and the Transportation Uniform Mitigation Fee Program.