



MEETING DATE: 4/6/09

ITEM NO:

4

COUNCIL AGENDA REPORT

DATE: MARCH 25, 2009

TO: MAYOR AND TOWN COUNCIL

FROM: GREG LARSON, TOWN MANAGER

SUBJECT: ADOPT RESOLUTION AUTHORIZING APPLICATION TO LAFCO FOR
WEST PARR AVENUE TOWN LIMITS BOUNDARY REALIGNMENT

RECOMMENDATION:

Adopt Resolution (Attachment 1) authorizing application to the Santa Clara County Local Agency Formation Commission (LAFCO) for realignment of the Town limits boundary along West Parr Avenue.

BACKGROUND:

Several years ago, the County and LAFCO approached the City of Campbell (City) and Town of Los Gatos (Town) regarding the pocket annexation of an incorporated area along West Parr Avenue. Although this pocket is located along the south side of West Parr Avenue adjoining the Town, this portion of the street is actually within the Urban Service Area (USA)/Sphere of Influence (SOI) of the City. As such, only the City is eligible for annexing this pocket under the streamlined annexation process. Further research confirmed the ownership of the south side of West Parr Avenue as being divided among the County, the City, and the Town (see map as Attachment 2).

Consequently, City staff approached the Town regarding the possible realignment of the City/Town boundary to better align with the centerline of West Parr Avenue. This realignment would require not only the annexation of existing County pockets into the Town, but also would require the de-annexation of a small pocket by the City, which would then be re-annexed to the Town. The Town agrees with the City that such realignment and annexation would make logical sense from a development and public improvement standpoint. Furthermore, such an arrangement would also benefit the County from an ongoing maintenance standpoint.

PREPARED BY: TODD CAPURSO
Director of Parks and Public Works

Reviewed by: PSJ Assistant Town Manager _____ Town Attorney _____ Clerk Administrator
SC Finance _____ Community Development

PAGE 2

MARCH 25, 2009

MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION AUTHORIZING APPLICATION TO LAFCO FOR WEST
PARR AVENUE TOWN LIMITS BOUNDARY REALIGNMENT

DISCUSSION:

The Office of County Surveyor of Santa Clara County conducted a boundary research along West Parr Avenue from Pollard Road to Capri Drive. The results of this research is as follows:

- The City of Campbell USA/SOI boundary is located 25-ft south of the street centerline;
- The City of Campbell owns the public right-of-way along the north side of West Parr Avenue;
- The City of Campbell owns a pocket of right-of-way on the south side of the street between Vale Avenue and Theresa Avenue; and
- The Town of Los Gatos and the County of Santa Clara each own pockets of public right-of-way along the south side of the street.

The current alignment of the USA/SOI is problematic for several reasons. It is not always clear to residents along the south side of the street which jurisdiction to contact for non-emergency safety or maintenance issues. The maintenance responsibility for public infrastructure is not clearly defined among the three agencies. Control over development projects which trigger public improvements is also sometimes not clearly defined. For example, proposed projects located on properties within Town jurisdiction cannot be required to replace pavement within the City's USA/SOI.

Having identified these issues, the City, the Town and the County approached LAFCO seeking assistance in resolving the situation. LAFCO staff suggested the City and Town should submit applications for de-annexation of the pocket on the south side of the street, and for realignment of the USA/SOI boundary.

The City and the Town jointly submitted a letter to LAFCO on January 6, 2009 (Exhibit A) requesting further cooperation from LAFCO and the waiving of the associated application fees. During its meeting on February 4, 2009, the LAFCO Board of Commissioners discussed the West Parr Avenue issue (The LAFCO staff report on this issue, including the Town/City joint letter, is included as Attachment 3). The Board was particularly impressed by the initiative the three agencies have taken in resolving and USA/SOI issue, and encouraged City/Town staff to submit their applications to de-annex and to realign USA/SOI.

In conjunction with the Town, at their meeting of April 7, 2009, the City of Campbell's City Council will be taking action to authorize City staff to submit their concurrent application to LAFCO.

CONCLUSION:

Staff recommends that the Town Council accept the staff recommendations noted above.

PAGE 3

MARCH 25, 2009

MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION AUTHORIZING APPLICATION TO LAFCO FOR WEST
PARR AVENUE TOWN LIMITS BOUNDARY REALIGNMENT

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is Categorically Exempt (Section 15301c). A Notice of Exemption will not be filed.

FISCAL IMPACT:

LAFCO typically requires a deposit fee of \$11,481 for the "USA/SOI" realignment and annexation application. An additional \$350 is required by the State Board of Equalization. As part of the application process, staff will request that LAFCO waive their fees. If these fees are not waived, staff will return to Council with an alternate recommendation.

Additionally, the southern half of West Parr Avenue will be added to the Town's street and pavement inventory. This section of roadway was recently resurfaced by the City and is in good condition; it will not need any maintenance for several years. Additional maintenance work tasks may also be required and will be performed by the Town staff as part of their work assignments.

Attachments:

1. Resolution
2. Map of West Parr Avenue
3. LAFCO Staff Report dated February 4, 2009.
 - Attachment 3 includes;
 - Joint letter to LAFCO from the City and Town (Exhibit A)
 - County Island Annexation Policies (Exhibit B)

RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
AUTHORIZING APPLICATION TO
LOCAL AGENCY FORMATION COMMISSION (LAFCO)
FOR REALIGNMENT OF TOWN LIMIT BOUNDARY ALONG WEST PARR AVENUE**

WHEREAS, ownership of public right-of-way is divided among the City of Campbell, the Town of Los Gatos and the County of Santa Clara, and

WHEREAS, the existing Urban Service Area/Sphere of Influence is located 25-ft south of the street centerline; and

WHEREAS, response to public safety, public facility maintenance, and jurisdictional control of development projects can be greatly enhanced by the realignment of USA/SOI; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Los Gatos authorizes the staff to submit application to LAFCO for realignment of Town limit boundary along West Parr Avenue.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 6th day of April, 2009 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:




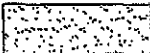
ABSTAIN:

SIGNED: MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

LEGEND

-  COUNTY RIGHT-OF-WAY TO BE ANNEXED INTO TOWN OF LOS GATOS
-  CAMPBELL RIGHT-OF-WAY TO BE ANNEXED INTO TOWN OF LOS GATOS
-  TOWN OF LOS GATOS
-  CITY OF CAMPBELL

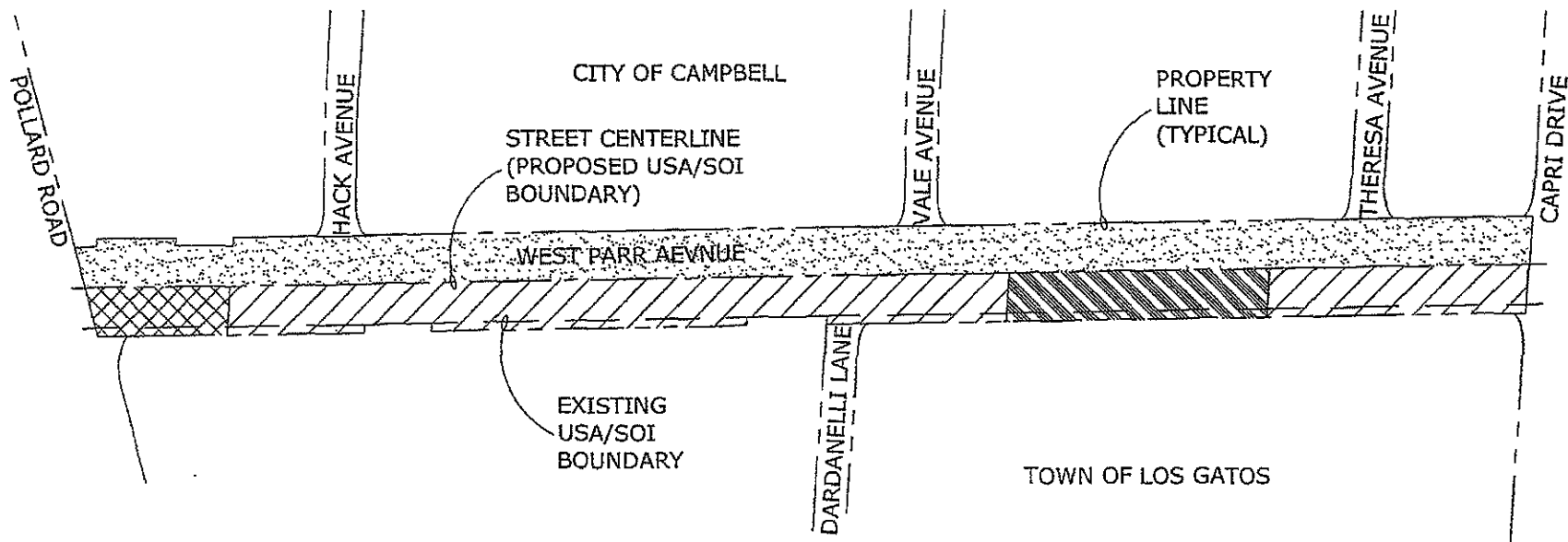


EXHIBIT
CITY OF CAMPBELL - TOWN OF LOS GATOS - COUNTY OF SANTA CLARA
WEST PARR AVENUE - POCKET ANNEXATION



ITEM NO. 7

MEETING DATE: February 4, 2009
TO: Local Agency Formation Commission of Santa Clara County
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: LAFCO Fee Waiver Request from Campbell and Los Gatos for
an USA/SOI Amendment and Detachment from Campbell to
Facilitate Annexation of Island (W. Parr Avenue)
Agenda Item # 7

STAFF RECOMMENDATION

Accept report and provide further direction as necessary.

LAFCO FEE WAIVER REQUEST

The City of Campbell and the Town of Los Gatos are jointly requesting that LAFCO waive its processing fees for an urban service area (USA) / sphere of influence (SOI) amendment and for detachment of property from Campbell to facilitate annexation of an unincorporated island to Campbell and Los Gatos. The island comprises entirely of County road segments (West Parr Avenue). See **Attachment A** for the joint request letter from Los Gatos and Campbell.

BACKGROUND

Staff from LAFCO, the Santa Clara County Roads and Airports Department, the City of Campbell, and the Town of Los Gatos have been working together to facilitate the annexation of segments of a County road (West Parr Avenue between Capri Drive and Pollard Avenue) in order to resolve confusion in jurisdictional and maintenance issues. Since the W. Parr Avenue road segments are unincorporated and completely surrounded by the City of Campbell to the north and the Town of Los Gatos to the south, they are considered unincorporated islands. These unincorporated islands (i.e. segments of West Parr Avenue) are currently located within the City of Campbell's Urban Service Area and Sphere of Influence and are less than 150 acres. Therefore they are currently eligible to be annexed by the City of Campbell under the streamlined island annexation process. Under the Island Annexation Program, LAFCO would waive its fees for processing an island annexation (\$1,103) and the County of Santa Clara would cover the various processing costs (including the preparation of assessor's report, the preparation of annexation map and description and the surveyor's report)

and also pay the State Board of Equalization fees (approximately \$300) . In addition, the County has agreed to pay for the pavement work (\$47,435) completed by the City of Campbell on the unincorporated portions of West Parr Avenue contingent on West Parr Avenue being annexed to either the City of Campbell or the Town of Los Gatos.

However, Los Gatos and Campbell have discussed and jointly concluded that rather than Campbell annexing the entire width of the unincorporated W. Parr Avenue segments (which it could currently do), the road maintenance and jurisdictional issues for development projects would be more logically addressed if each of the cities annexed up to the center line of W. Parr Avenue. That is, the City of Campbell would annex the W. Parr Avenue right-of-way north of the center line and the Town of Los Gatos would annex the W. Parr Avenue right-of-way south of the center line.

In order to implement their joint recommendation the two jurisdictions must seek LAFCO approval for:

- Amending their USA/SOI boundary so that it coincides with the center line of West Parr Avenue.
- Detaching from the City of Campbell a portion of W. Parr Avenue right of way up to the centerline between Vale Avenue and Theresa Avenue.

The joint letter from Los Gatos and Campbell indicates that they are prepared to take formal action to complete the entire annexation process and are requesting that LAFCO waive fees for the proposed detachment and USA/SOI amendment. The letter notes that the granting of such a request is consistent with LAFCO's Island Annexation Policies (See Attachment B for LAFCO's Island Annexation Policies, Policy #9).

Under the current fee schedule, LAFCO would collect a deposit of \$11,481 and charge actual costs for a proposal that consisted of a detachment and USA/SOI amendment in order to cover the staff time and materials involved in processing the application. If the cost of processing the proposal is less than the deposit then that difference is refunded to the applicant, upon completion of the project.

Pursuant to Government Code §56383(d), the Commission may waive a fee if it finds that payment would be detrimental to the public interest. However, any waiver of fees is limited to only those costs incurred by the commission in the processing of a proposal as per §56383(f). The applicant will remain responsible for any outside fees such as the State Board of Equalization fees for the detachment proposal.

With the exception of LAFCO's current island annexation fee waiver, it has been LAFCO's practice to not waive its fees, as LAFCO strives to achieve full cost recovery. Given that the LAFCO budget is funded jointly by the County and all the cities, it is difficult to justify a special waiver for some agencies at the expense of others. This LAFCO fee waiver request for amendment of associated boundaries in order to

facilitate an island annexation is the first of its kind. However, staff is aware of at least one other similar island annexation situation that is being contemplated by two cities. The granting of the requested fee waiver could likely open the door to at least one other similar request.

This request for fee waiver is non-standard in that it is not accompanied by an application to LAFCO for the SOI/USA amendment or for the detachment from Campbell. It is unclear if the cities would follow through with the boundary changes and annex the road should LAFCO deny the request for fee waiver.

There are two alternatives that the Commission could consider:

1. LAFCO should request that the City and the Town submit a complete application to allow the Commission to concurrently consider the merits of the proposal, determine if the payment of the fee would be to the public detriment and consider the potential precedent setting nature of granting a fee waiver for this specific proposal. Furthermore, receipt of the joint application, including the required city resolutions, would provide greater assurance to LAFCO that the two cities will ultimately complete all the processes necessary to annex the W. Parr Avenue unincorporated island, before LAFCO staff and County staff expend additional time on the proposal – similar to our requirements for facilitating island annexations. Additionally, outside fees such as the State Board of Equalization fees and the cost of map verification by the County Surveyor's office and the cost of County Assessor's Report may not be waived by LAFCO.
2. LAFCO could deny the request for a fee waiver and request the City of Campbell to annex the entire section of West Parr Avenue and work out a maintenance / improvement agreement with the Town of Los Gatos to address any potential issues.

ATTACHMENTS

- | | |
|---------------|---|
| Attachment A: | Joint letter from Campbell and Los Gatos dated January 6, 2009, requesting LAFCO fee waiver |
| Attachment B: | LAFCO Island Annexation Policies |

ITEM NO. 7
ATTACHMENT A



January 6, 2009

The Honorable Pete Constant
Chair, Santa Clara County LAFCO
70 W. Hedding St., 10th Floor
San Jose, CA 95110

Re: West Parr Avenue – Pocket Annexation (Campbell/Los Gatos)

Dear Chair Constant:

Staff from LAFCO, Santa Clara County (County), the Town of Los Gatos (Town), and the City of Campbell (City) have been working together on the possible annexation of County island pockets along West Parr Avenue between Capri Drive and Pollard Avenue in an effort to resolve jurisdictional and maintenance issues.

The County Surveyor's Office recently confirmed that the City currently possesses ownership of the public right-of-way along the majority of the north side of West Parr Avenue between Capri Drive and Pollard Avenue from the street centerline. However, right-of-way ownership on the south side of West Parr Avenue is divided among the City (18%), the Town (11%) and the County (71%). To further complicate the matter, the current Urban Service Area (USA)/Sphere of Influence (SOI) boundary is located south of the street centerline.

In accordance with LAFCO's Island Annexation Policies, all three agencies agree that the entire southern half of West Parr should be annexed into the Town in the interest of efficient service provision, and orderly growth and development. In order for the Town to assume ownership of the south side, the following needs to take place.

- The City must de-annex a portion of street right-of-way along the south side of West Parr between Vale Avenue and Theresa Avenue.
- The current USA/SOI boundary must be realigned from 25-ft south of the street centerline to coincide with the street centerline.
- Concurrent with the two actions above, the Town would annex the street right-of-way south of the street centerline from Capri Drive to Pollard Avenue in accordance with LAFCO's Island Annexation Policies.

Pete Constant
January 6, 2009
Page 2

The desired adjustments to the City, County and Town boundaries and USA/SOI, will only affect ownership of the public right-of-way. These changes are indicated on the attached exhibit for your reference.

Both the Town and the City are prepared to agendize for formal Council action those steps necessary to effectuate this Pocket Annexation. However, prior to proceeding, we are requesting that LAFCO waive fees associated with the USA/SOI modification and de-annexation necessary to implement the Pocket Annexation as desired by the parties.

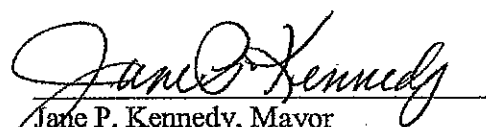
As you know, the County and LAFCO have routinely waived fees and covered costs associated with Pocket Annexations. Our request is that the fee waivers be extended to include the de-annexation and USA/SOI boundary adjustment component of this Pocket Annexation.


The goal of the three agencies is to have the Town assume ownership of the southern half of West Parr Avenue through the Pocket Annexation process. This cannot be done without modification to the USA/SOI boundary and a small de-annexation of public right-of-way from the City of Campbell.

LAFCO staff has advised our City and Town staff that they do not have the authority to grant fee waivers. As such, we hereby respectfully request that LAFCO consider waiving all fees associated with this island annexation process including de-annexation and correction of the USA/SOI boundary in accordance with LAFCO's Island Annexation Policies "to find ways to reduce or share the cost of processing unincorporated island annexations."

We look forward to your reply. Thank you for your kind attention.

Sincerely,


Jane P. Kennedy, Mayor
City of Campbell


Mike Wasserman, Mayor
Town of Los Gatos

Attachment

cc: LAFCO Members
Michael Murdter, Director of County Roads and Airports
Ron Jackson, Deputy Director, County Roads and Airports
Neelima Palacherla, LAFCO Executive Officer

ISLAND ANNEXATION POLICIES

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a 2-year LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. The current LAFCO fee is \$670 for each annexation area. This fee waiver will expire on January 1, 2007.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
 - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.

Adopted February 9, 2005