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AGENDA 5 January 14, 2010

January 6, 2010

Honorable Commissioners  
Alameda Local Agency Formation Commission

Subject: **City of Hayward – Mt. Eden Reorganization (Phase II)**

Dear Commissioners:

The City of Hayward filed this reorganization application to annex the two remaining unincorporated islands known as the West Mohr and Mohr-Depot areas located generally south of West Winton Avenue, west of Hesperian Blvd., and north of State Route 92 in the Mt. Eden area pursuant to Government Code § 56375.3 (see Attachment 1 – Boundary Map). The total area consists of 61 acres including 5.68 acres of road rights-of-way. The purpose of the annexation is to eliminate unincorporated islands totally surrounded by the City, and facilitate the extension of City services and public infrastructure improvements to the area. The proposal also includes detachment of the same territory from the Alameda County Library District (ACLD) and the Alameda County Fire District (ACFD) with corresponding amendments to the ACLD and ACFD spheres of influence (SOIs).

In accordance with the requirements of the State of California Fair Political Practices Commission, the property owners were asked to complete Statements of Financial Disclosure as part of the application process. None of those who responded reported contributions or business transactions in excess of \$250 with any Commissioner within the past 12 months.

**Discussion**

On November 13, 2009, LAFCo received an application from the City of Hayward to annex the remaining two unincorporated islands in the Mt. Eden area. Both island areas are located within the Alameda County Redevelopment Project Area known as the Mt. Eden Subarea. Three other unincorporated islands in the Mt. Eden area, known as Mt. Eden Phase I, were annexed by the City in February 2007.

The proposed annexation meets the criteria to be processed under Government Code §56375.3 which provides that LAFCo shall approve, after notice and hearing, the annexation to a city, and waive protest proceedings, if the annexation is: (1) initiated before January 1, 2014; (2) initiated by City Resolution;

(3) less than 150 acres in size for the entire island, surrounded by a city and constitutes the entire unincorporated area; (4) not prime agricultural land; (5) an area that is substantially developed; and (6) an area that will benefit from the annexation, or is already receiving benefits from the City.

The proposed annexation meets the above stated criteria. The application was initiated before January 1, 2014 by a City resolution. The islands total 61+/- acres in size. They are completely surrounded by the City, and each island constitutes an entire unincorporated area. The proposed area is not prime agricultural land, is substantially developed, and will receive benefits from the City of Hayward in terms of improved proximity to municipal services such as police and sewer services. The subject annexation areas are currently receiving City fire protection services through contract with the Alameda County Fire Department. In July 2009, the City acquired the Mohrland Mutual Water Association (MMWA), which provided water services to most properties in the annexation areas, and connected the MMWA's infrastructure to the City's water system. The subject annexation areas, with the exception of four parcels that are connected to Hayward's sewer system, do not have access to a municipal sewer system and, consequently, most properties utilize septic systems.

Approval by this Commission would be the final action required for annexation.

**Factors for Consideration: Annexation to the City of Hayward**

Government Code §56668 provides 15 factors to be considered in the review of a proposal. The Commission's review shall include, but is not limited to, consideration of these factors. A copy of the City's application is attached (see Attachment 2).

**Table 1 – Factors to be Considered**

Factor to Consider	Response
(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.	The subject territory consists of 0.095 square miles with an estimated population of 219. Current land use in the annexation area is Low Density Residential (less than nine units per acre). The West-Mohr island consists primarily of single family dwellings, with a portion of Chabot College campus and the Mohr-Frye estate included. The Mohr-Depot island consists primarily of single family residences, an institutional use and two parcels currently used for a combination of residential and light industrial/outdoor uses. A total of 67 housing units are located in the subject annexation area. The total assessed value of the land is \$14.9 million. Adjacent land uses include single family residential, multi-family residential, Chabot College and industrial. The subject annexation area is urbanized and completely surrounded by the City of Hayward. The applicant estimates approximately 380 people will live within the annexation area at the end of 10 years.
(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action	There is a need for organized community services to support development consistent with the City of Hayward's General Plan. The City of Hayward has prepared a Plan for Providing Municipal Services specific to this proposal (Attachment 3). The proposed provision of various municipal services is briefly summarized below:

Factor to Consider	Response
<p>on the cost and adequacy of services and controls in the area and adjacent areas.</p> <p>"Services," as used in this subdivision, refers to governmental services whether or not the services would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.</p>	<p><u>Wastewater Collection and Treatment</u>                      The City of Hayward Plan for Providing Municipal Services indicates that most of the proposed reorganization area is not served by a public sewer system. The City has adopted an Ordinance Amending Section 11-3-201 of Chapter 11 Article 3 of the Hayward Municipal Code, establishing an exception to the requirement to connect to the public sewer system for certain properties in the Mt. Eden Phase II annexation area. The Ordinance states that "The ... amendment will minimize fiscal impacts on residents and owners in the Mt. Eden Phase II annexation area by allowing them up to 10 years to connect their properties to the public sewer system, provided their existing septic systems are operating sufficiently and provided no expansion of use occurs that would generate additional sewer discharge."</p> <p><u>Water Supply</u>                      "Most properties in the area are served by the City's water system due to the recent acquisition of the infrastructure previously owned by the Mohrland Mutual Water Association (MMWA)."<sup>1</sup> During July and August of 2009, the City of Hayward installed water meters on the properties previously served by MMWA.<sup>2</sup></p> <p><u>Police Services</u>                      For the proposed reorganization area, law enforcement services are currently provided by the Alameda County Sheriff's Office. Approval of the proposed annexation and related potential new development would represent an incremental increase in calls for service to the Hayward Police Department. Residents of the project areas would benefit from a higher level of service, faster response times and a greater number of police personnel on patrol in the area.<sup>3</sup></p> <p><u>Fire Protection and Emergency Medical Service</u>                      Fire and emergency medical service to the proposed reorganization area are provided by the City of Hayward Fire Department through an agreement with Alameda County since 1983.<sup>4</sup></p> <p><u>Storm Drainage</u>                      According to the City of Hayward Plan, "If the annexation is approved, storm drain system upgrades will be required to include installation of approximately 3,300 linear feet of 12 to 24-inch, 215 feet of 36-inch and 1095 linear feet of 48-inch storm drain culverts in both islands."<sup>5</sup></p>

<sup>1</sup> City of Hayward, Mt. Eden Annexation Phase II-Plan for Providing Municipal Services, October 14, 2009, Page 3 of 12.

<sup>2</sup> Ibid, Page 5 of 12.

<sup>3</sup> Ibid, Pages 3 & 4 of 12.

<sup>4</sup> Ibid, Page 4 of 12.

<sup>5</sup> Ibid, Page 7 of 12.

Factor to Consider	Response
	<p><u>Flood Control</u> The reorganization area is within Zone 4 of the Alameda County Flood Control and Water Conservation District (ACFCWCD). There would be no changes in service due to annexation.<sup>6</sup></p>
	<p><u>Streets</u> According to the City of Hayward some street improvements will be required. Maintenance for all public streets and associated traffic operations and street lighting within the annexation area will be provided by the City. Since the area will remain in the Alameda County Redevelopment Area funding to support improvements and maintenance will be shared according to an agreement with the City and the County Redevelopment Agency.<sup>7</sup></p>
	<p><u>Solid Waste Disposal and Recycling</u> Annexation would have minimal impact on the solid waste collection service provider since all solid waste in both the annexation area and the City of Hayward is collected by Waste Management, Inc. (under franchise agreements) and hauled to the Altamont Landfill for disposal.<sup>8</sup></p>
	<p><u>Library Services</u> The Hayward library system already serves residents within the proposed annexation area. The impacts on library operation due to the annexation would be minimal.<sup>9</sup></p>
	<p><u>Public Schools</u> The proposed reorganization area is within the Hayward Unified School District. The estimated future development may generate 22 elementary school students, 5 middle school students and 12 high school students. Developers will be obligated to pay the required school impact fees to mitigate impacts of the additional students on the schools.<sup>10</sup></p>
	<p><u>Parks and Recreation</u> The annexation area and the entire City of Hayward are within the Hayward Area Recreation and Park District (HARD) service area. Anticipated development would generate the need for an additional 0.26 acres of new local parkland. Payment of park in-lieu fees or dedication of new parkland and/or recreation facilities at the time future development is permitted will mitigate the demand for parks in the future.<sup>11</sup></p>

<sup>6</sup> Ibid, Page 7 of 12.

<sup>7</sup> Ibid, Pages 7 - 10 of 12.

<sup>8</sup> Ibid, Page 8 of 12.

<sup>9</sup> Ibid, Pages 8 & 9 of 12.

<sup>10</sup> Ibid, Page 9 of 12.

<sup>11</sup> Ibid, Page 9 of 12.

Factor to Consider	Response
	<p><u>Transit</u>            The annexation area is with the Alameda-Contra Costa Transit District and is also served by the Bay Area Rapid Transit District. No changes in existing service are anticipated as a result of this reorganization.<sup>12</sup></p> <p><u>Electricity/Telephone/Cable</u>            The Pacific Gas and Electric Company provides electricity and gas service to the area and would continue to do so after annexation. AT&amp;T provides primary telephone and telecommunication facilities in the area and will continue to do so. Comcast is the cable service provider and other communication facilities are also available.<sup>13</sup></p>
(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.	The proposed action facilitates implementation of the Hayward General Plan. It does not negatively impact existing County structures or agencies currently providing service.
(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in §56377. (Note: §56377 encourages preservation of open-space lands.)	The proposed project is consistent with LAFCo's policies in that it eliminates unincorporated islands wholly surrounded by a city and promotes the efficient orderly development of the territory as envisioned by the City.
(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by §56016.	The subject annexation site is urbanized and is not currently an important agricultural resource. Therefore, the annexation area will not have adverse effects on the physical and economic integrity of agricultural lands.
(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.	The map and legal description have been reviewed by the County Surveyor. Boundaries are definite and certain and there are no parcel splits or boundary irregularities created by this action.
(g) Consistency with city or county general and specific plans.	The proposed annexation is consistent with the Eden Area Plan, a part of the Alameda County General Plan, adopted November 3, 1983, Amended 1995 (Board of Supervisors Resolution 95-680) <sup>14</sup> The proposed annexation is consistent with the City of Hayward General Plan and the Mt. Eden Neighborhood Plan. <sup>15</sup> The City of

<sup>12</sup> Ibid, Page 9 of 12.

<sup>13</sup> Ibid, Page 9 of 12.

<sup>14</sup> <http://www.acgov.org/cda/planning/plans/EdenAreaPlan1983Amendedcombined.pdf>, January 5, 2010.

<sup>15</sup> City of Hayward, Planning Commission Staff Report, "Update on the Mt. Eden Annexation Phase II Study and Related Technical Reports," September 17, 2009, Page 3 of 8.

Factor to Consider	Response
	Hayward rezoned the land in 1990 as part of the Mt. Eden Neighborhood Plan. <sup>16</sup> The rezoning was updated as part of the LAFCo application process by the Hayward City Council on November 3, 2009. <sup>17</sup> Only two zones were modified: Light Manufacturing (LM) changed to Light Industrial and a part of the Chabot College property changed from RS (Single Family Residential) to PF (Public Facility). <sup>18</sup>
(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.	The entire territory proposed for annexation lies within the adopted SOI of the City of Hayward. The ACLD and ACFD boundaries will overlap with City boundaries if not reduced concurrent with application processing. There are no related adverse impacts stemming from reductions in these SOIs.
(i) The comments of any affected local agency.	No comments were received by LAFCo from any local agencies.
(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.	The City of Hayward, through its resolution of application, justification of proposal, and Plan for Providing Municipal Services, attests to its ability to extend all services provided by the City to the subject territory without impact to existing residents.
(k) Timely availability of water supplies adequate for projected needs as specified in §65352.5.	The City's water management plan shows it has adequate supply and is capable of delivering water to the subject territory to support development levels consistent with the General Plan.
(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with §65580) of Chapter 3 of Division 1 of Title 7.	According to the City of Hayward General Plan, "A comparison of the ABAG RHND (Regional Housing Needs Determination) with Hayward's total housing potential shows that sufficient housing potential remains in Hayward and its Sphere of Influence (SOI) to accommodate the RHND." <sup>19</sup> "Based on the proposed rezoning designations, there would be a potential for 54 new housing units in the study area." <sup>20</sup> This will help the City to meet its fair share of housing needs.
(m) Any information or comments from the landowner or owners.	No comments have been received to date.
(n) Any information relating to existing land use designations.	There are two areas within the proposed annexation which are designated for Agriculture (A). This land use designation is "to preserve agricultural areas until such time as orderly development may take place. The A zoning is appropriate for the Herman-Mohr and Mohr-Fry estates as these properties have development potential and the owners have yet to determine the most appropriate uses." <sup>21</sup>
(o) The extent to which the proposal will	Once the property is annexed to the City of Hayward, the City will

<sup>16</sup> City of Hayward, Planning Commission Staff Report, "Update on the Mt. Eden Annexation Phase II Study and Related Technical Reports," September 17, 2009, Page 3 of 8.

<sup>17</sup> City of Hayward, Minutes of the City Council, November 3, 2009, Page 14.

<sup>18</sup> City of Hayward, Planning Commission Staff Report, "Update on the Mt. Eden Annexation Phase II Study and Related Technical Reports," September 17, 2009, Page 3 of 8.

<sup>19</sup> City of Hayward General Plan, Chapter 5 Housing, Page 5-20.

<sup>20</sup> City of Hayward, Planning Commission Staff Report, "Update on the Mt. Eden Annexation Phase II Study and Related Technical Reports," September 17, 2009, Page 3 of 8.

<sup>21</sup> City of Hayward, Planning Commission, "Mt. Eden Annexation Phase II", October 15, 2009, Page 9 of 13.

<b>Factor to Consider</b>	<b>Response</b>
<p>promote environmental justice.</p> <p>As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.</p>	<p>provide for street signs throughout the Mt. Eden neighborhood identifying it as such.<sup>22</sup> This will promote neighborhood identity and unity. The City will work with the landowners to plan for the provision of commercial services needed in the neighborhood such as retail stores, food service, and grocery stores. The City will work with the owners of existing septic tanks to keep the costs of testing and reporting low until they can be added to the wastewater collection and treatment system. The annexation will permit greater density in the future which will allow a greater range of housing types and increased low-income housing in an area close to Chabot College.</p>

**Property Tax Agreement**

In accordance with provisions of Revenue and Taxation Code §99, the City of Hayward adopted Resolutions No. 09-170 on November 3, 2009, and the County of Alameda adopted Resolution No. R-2006-490 on December 15, 2009 authorizing an exchange of property tax revenue for this annexation proposal.

**Williamson Act Land Conservation Contract**

No agricultural preserves are located on the project site.

**Environmental Analysis**

As Lead Agency, the City of Hayward considered a Final Initial Study/Mitigated Negative Declaration for the Mt. Eden Annexation Phase II Project and found it to be adequate and complete.

In accordance with Alameda LAFCo Guidelines, adopted California Environmental Quality Act (CEQA) procedures, and applicable provisions of CEQA, LAFCo staff finds that the prior environmental documents adequately discuss and disclose the potential environmental impacts of the proposed reorganization and SOI amendments. Further, staff finds the proposed project will not introduce any new impacts not previously disclosed.

**Alternatives for Commission Action**

**Option 1 –**

1. Approve the application referenced as **City of Hayward Mt. Eden Reorganization (Phase II)**, which includes the annexation of 61 acres (including 5.68 acres of road rights of way) to the City of Hayward and the detachment of the same territory from the service boundaries and SOIs of the Alameda County Library District and Alameda County Fire District subject to the following terms and conditions:
  - a. Correction of the Final Maps and Descriptions as may be required by the County Surveyor.
  - b. Authorization for the Executive Officer, in coordination with LAFCo legal counsel, to execute an indemnification agreement between the City of Hayward and Alameda LAFCo

<sup>22</sup> City of Hayward, Minutes of the City Council, November 3, 2009, Page 8.

providing for the City to indemnify LAFCo against any expenses arising from any legal actions challenging the reorganization.

2. Conclude that LAFCo has reviewed and considered the information contained in the environmental documents and finds them to be adequate and complete for LAFCo review purposes.
3. Waive the Conducting Authority proceedings in accordance with Government Code §56375.3.
4. Approve and authorize the execution of the Certified Resolution of Reorganization and Waiver of Conducting Authority Proceedings (Attachment 4).

**Option 2** – Adopt this report and DENY the proposal.

**Option 3** – If the Commission needs more information, CONTINUE this matter to a future meeting.

**Recommended Action**

Approve Option 1.

Sincerely,



Mona Palacios  
Executive Officer

**Attachments**

1. Boundary Map
2. City of Hayward annexation application
3. City of Hayward Plan for Providing Municipal Services
4. Draft LAFCo Resolution of Reorganization Approval and Authorization to Waive Protest Hearing

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c: Susan S. Muranishi, Alameda County Administrator  
Greg Jones, Hayward City Manager  
Erik Pearson, Senior Planner, City of Hayward  
Rita Shue, General Manager, Hayward Area Recreation and Park District  
Gregory Ahern, Alameda County Sheriff  
Sheldon Gilbert, Alameda County Fire Chief  
Chris Bazar, Alameda County Community Development Agency Director  
Daniel Woldesenbet, Alameda County Public Works Agency Director  
Jean Hofacket, Alameda County Librarian  
Sheila Jordan, Alameda County Superintendent of Schools  
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Honorable Commissioners

January 6, 2010

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