

REPORT TO SHASTA COUNTY BOARD OF SUPERVISORS

SUBJECT	TAX EXCHANGE TERMS FOR ANNEXATION OF UNINCORPORATED PROPERTY INTO THE CITY OF ANDERSON	BOARD MEETING DATE	AGENDA NUMBER
		November 5, 2013	
DEPARTMENT	County Administrative Office	Supervisory District No.	5
DEPARTMENT CONTACT	<u>Name</u> Larry Lees	<u>Title</u> County Executive Officer	<u>Phone Number</u> 530-225-5561
4/5 Vote Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	General Fund Impact? <input type="checkbox"/> No General Fund Impact with the Recommended Action <input type="checkbox"/> No Additional General Fund Impact from the Recommended Action <input checked="" type="checkbox"/> General Fund Impact from the Recommended Action		

RECOMMENDATION

It is recommended that the Board consider approving the recommended tax exchange terms for the proposed annexation of unincorporated property into the City of Anderson.

SUMMARY & DISCUSSION

During the past few months, staff has been working with the City of Anderson to come to an agreement regarding property in the unincorporated area that the City of Anderson would like to annex. The Anderson City Manager, the County Executive Officer (CEO), Shasta County Board of Supervisors Chairman David Kehoe, Supervisor Leonard Moty, Anderson Mayor James Yarbrough, and Anderson Vice Mayor Debe Hopkins have come to a tentative agreement regarding the sharing of property taxes and sales taxes after the proposed annexation has occurred.

The property that is being contemplated for annexation is approximately 385 acres. Due to the close proximity of Interstate-5; Highway 273 and the railroad, this property is ideal for development. In anticipation of a request to annex the property by the City of Anderson; the CEO and the Anderson City Manager are asking for your consideration of the following proposal, regarding the distribution of future sales and property taxes.

Subject to the development of the language of the agreement, the following are the three basic terms that have been tentatively agreed to by the City Manager and the CEO:

- **Property Tax** – County to retain 100% of existing property tax revenues. At the completion of the annexation, County and the City of Anderson will share, 50% of all future growth in property tax within the annexed area.
- **Sales Tax** – County to retain 100% of revenue from all existing sales tax accounts within the annexation area that are currently on file with the Board of Equalization. City and County to share future sales tax growth based on the following formula; 80% of the revenue from all new accounts will be retained by the City and 20% accounts will be retained by the County. The County's 20% would be dedicated to funding regional law enforcement functions.

- Potential State Law Base Year Changes – So as to avoid possible future disputes in the event state law affecting base year property tax apportionment changes, County and City to agree to language that will clarify both upside potential and downside risk in the event State legislation changes the distribution of base year property taxes.

A final agreement will come before the Board of Supervisors after they have received formal notification of the annexation request from Shasta County Local Agency Formation Committee (LAFCO).

ALTERNATIVES

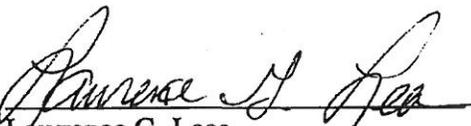
The Board could choose not to approve the proposed tax exchange negotiations for the annexation of the property. This is not recommended as this exchange would provide increased economic opportunity for both Shasta County and the City of Anderson.

OTHER AGENCY INVOLVEMENT

The County Administrative Office prepared the staff report.

FINANCING

If the annexation is approved and the City of Anderson eventually develops the property, there could be an increase in both property taxes and sales taxes.


Lawrence G. Lees
County Executive Officer

LGL/md

c: Jeff Kiser, City Manager, City of Anderson

RESOLUTION NO. 13-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANDERSON PROVIDING FOR THE TRANSFER OF TAX REVENUES FOR ANNEXATION

WHEREAS, Revenue and Taxation Code §99, as amended (the Code), provides for the City of Anderson and the County of Shasta to determine an appropriate property tax transfer for all jurisdictional changes prior to the proposal being considered by the Local Agency Formation Commission (LAFCO); and

WHEREAS, Government Code §56842, as amended, requires that non-affected local agencies' percentage share will remain constant; and

WHEREAS, the affected local agencies combined tax apportionment factor subject to negotiation for a tax exchange as a result of the identified annexation has been determined and provided to each affected agency; and

WHEREAS, the City of Anderson and the County of Shasta wish to agree to a fair-share distribution of tax revenues.

NOW, THEREFORE, the City Council of the City of Anderson does hereby agree to the following distribution of revenues within the affected area after the effective date of the identified reorganization:

1. Base Year Property Tax Revenue, as defined in the Code, shall be distributed as follows:
 - A) To the County, 100% of the base year property tax revenue allocated to the County of Shasta in the fiscal year of reorganization.
 - B) To the City, 0% of the base year property tax revenue allocated to the County of Shasta in the fiscal year of reorganization.
 - C) The base year property tax revenue of any dependent special district governed by the Board of Supervisors for which service responsibilities are being transferred from the special district to the City of Anderson or an independent special district as a result of the reorganization shall be distributed to the City of Anderson or the independent special district.
2. Annual Property Tax Increment Revenue, as defined in the Code, shall be distributed as follows:
 - A) To the County, 50% of the base year property tax revenue allocated to the County of Shasta in the fiscal year of reorganization.
 - B) To the City, 50% of the base year property tax revenue allocated to the County of Shasta in the fiscal year of reorganization.
 - C) The base year property tax revenue of any dependent special district governed by the Board of Supervisors for which service responsibilities are being transferred

from the special district to the City of Anderson or an independent special district as a result of the reorganization shall be distributed to the City of Anderson or the independent special district.

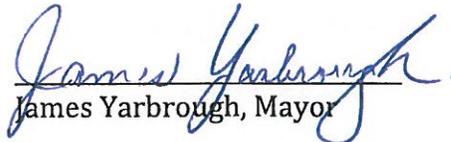
3. Sales Tax Revenue:

- A) The County shall retain sales tax revenues from all existing sales tax accounts within the reorganization area that are currently on file with the State Board of Equalization.
- B) The City shall receive 80% of all sales tax revenues from all new sales tax accounts within the reorganization area after the effective date of the reorganization as filed with the State Board of Equalization. The County of Shasta shall receive 20% of all sales tax revenues from all new sales tax accounts within the reorganization area after the effective date of the reorganization as filed with the State Board of Equalization. The County of Shasta further stipulates that the 20% of sales tax received will be used for regional law enforcement efforts.

4. Other Special District Revenues: None.

PASSED AND ADOPTED this 5th day of November 2013, by the following vote:

AYES: Councilmembers Hunt, Day, Baugh, Hopkins, and Mayor Yarbrough.
 NOES: None.
 ABSENT: None.
 ABSTAIN: None.


 James Yarbrough, Mayor

ATTEST:



 Brenda Hicken, Deputy City Clerk

Les Baugh
County Member

Irwin Fust
Special District Alternate

Larry Farr
City Member Alternate

Pam Giacomini
County Member Alternate

James Yarbrough
City Member

Brenda Haynes
Special District Member



Patrick Jones
City Member

Dick Fyten
Public Member

David Kehoe
County Member

Vacant
Public Member Alternate

Stephen Morgan
Special District Member

Jan Lopez
Executive Officer

January 21, 2014

Chief Andy Nichols
Anderson Fire Protection District
1925 Howard Street
Anderson, CA 96007

RE: LAFCO #13-14 Deschutes Road Reorganization Proposal

This is to advise your agency the district that the City of Anderson has proposed annexation of the above cited territory. Since the Anderson FPD provides fire protection within this city, it is our estimation that your district would be the appropriate agency to provide services to the annexation area at the conclusion of this proposal, with the exception of those parcels currently within the boundary of and receiving services from the Cottonwood Fire Protection District.

To accomplish this addition to the proposal, there are several things the city will be asked to provide, and several other things your district will need to provide. A copy of the letter to the city is attached.

The following items need to be accomplished by your district during this current review period in order to be merged with the city's action:

1. Develop a legal description of the territory being annexed, exclusive of the territory currently within the Cottonwood FPD.
2. Develop map of the territory being annexed, again exclusive of that within Cottonwood FPD.
3. Initiate a property tax exchange negotiation between the county and the district regarding transfer of territory from CSA#1-Shasta County Fire and Anderson FPD. Shasta Fire currently receives \$20.00 annually for each parcel within the territory being annexed. I don't anticipate any other exchange of revenues. Since the city has already gone through this process, I am suggesting they assist you. A flowchart showing the steps is attached.
4. Develop a Plan for Services (GC 56663) for the territory being annexed in narrative form, stating why no new or different services are involved (services currently provided by another agency)
 - a. The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.
 - b. The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.
 - c. An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

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Office: 530.242.1112 ~ Fax: 530.242.1113

- d. A written summary of whether the new or different function or class of services or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, pursuant to subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.
 - e. A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.
 - f. Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.
5. The district board will then adopt a resolution, just as if they were applying for the annexation apart from the city:
- a. Asking the commission to initiate proceedings pursuant to GC 56000 *et seq.*
 - b. Affirm that the Negative Declaration prepared for this project by the City of Anderson adequately addresses environmental issues surrounding the annexation.
 - c. Refer to the map as Exhibit A
 - d. Refer to the legal description as Exhibit B
 - e. Refer to the Plan for Services as Exhibit C
 - f. Other...

Once adopted, the clerk of the district then files a certified copy of that resolution and its attachments with the executive officer.

This provides an outline for proceeding. After our meeting today, we can go over this in more detail. The process is pretty straightforward.

Cordially,

Jan Lopez
Executive Officer

Cc: City of Anderson
Duane Miller Engineering

Attachments

Shasta LAFCO

From: Shasta LAFCO <exec@shasta.lafco.ca.gov>
Sent: Wednesday, March 26, 2014 12:38 PM
To: Jeff Kiser
Cc: Andy Nichols; Kristen Maze
Subject: Executive Officer Responses to R&T 99 tax issue query
Attachments: standard 11 April 2013.pdf; Property Tax Exchange flowchart 1.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Here are responses I have received from other LAFCO executive officers. Hopefully they will be of some help as you move forward on this issue. This should shed some light on the process. I have also attached a flow chart on using R&T 99 for these boundary change projects.

As noted earlier, we will need to submit publication of hearing notice of the #13-04 Deschutes proposal no later than April 7th for an April 9th publication date to meet the 21 day requirement for notice. Please let me know immediately if you run into any issues that might require us to continue the hearing to a later date.

Let me know if you need additional references.

SANTA CRUZ:

Seems like you have to try to get the best good-government result. You have a tax sharing agreement between the city and county. LAFCO could go forward and approve the city annexation with either (1) a condition that a fire district annexation be processed separately, or (2) a LAFCO-amended project description to include annexation to the fire protection district (this would trigger the property tax re-negotiation in R&T 99(b)(7)). At that point, you have facilitated the industrial project, and the other parties have to work something out.

In Santa Cruz, there are no master agreements. The County regularly authorizes the transfer of any existing property taxes that supports fire protection—dollar or dollar, base and increment, forever. If it is lower than the annexing FPD's tax percentage, the county doesn't kick in any more.

SOLANO:

See the Attachment above.

SAN BENITO:

- Can the FPD and city effectively negotiate between themselves for any subsequent tax split (say by agreement) without reopening the earlier city/county agreement?

Unless it is an annexation to provide a service which has not be previously provided the Board of Supervisors negotiates on behalf of all special districts, in this case the annexing FPD.

See R&T 99 (b) (5)

Se

Also see RT&T 99.01 which applies to situations where a special district will provide public services to that property where those services have not been previously provided by an local agency. In this case

the district negotiates on its own behalf and must approve the property tax exchange with the board of supervisors or the annexation does not proceed.

- Any alternative actions to suggest?

It seems to me, but I may be wrong, the County can determine what portion of its allocation of property taxes from the affected area are allocated to fire protection services and agree to transfer that apportionment factor to the annexing FPD.

- Do you have an example of a city/FPD agreement for services that these two agencies might use between them?

You may want to check with Ventura LAFCO. There are master property tax exchange agreements there wherein annexations to certain cities, i.e., Fillmore, Oxnard, Santa Paula and Ventura, are accompanied by detachments from the Ventura County FPD. Such changes are predicated upon the property taxes allocated to the FPD from the detachment area are allocated to the annexing city.

- Do you have an example of a county/special district master tax agreement we might share with districts up here?

It is my understanding a county/special district tax exchange agreement would only exist with regard to changes pursuant to R&T Section 99.01. I have no knowledge of such an agreement.

SAN LUIS OBISPO:

Is there an existing tax that the FPD charges that could be extended to the annexation area? I believe this is provided for in CKH and might help the District to fund its services without a lot of negotiation if a condition like that could be applied in this situation. Good luck.

SANTA CRUZ (2ND):

If you have nothing in the files, I would send a memo to the County Assessor and Auditor and request an estimate of the property taxes collected in the subject area and the breakdown by agency.

When that is in hand (both districts, CAO, and LAFCO), ask the districts to negotiate a tax exchange (for instance District B gets 100% of District A's property tax (base and increment within the subject area) beginning on the 2015 tax roll). Ratify the negotiation through one or more board resolutions. Figure out whether to send the tax exchange to the SBE with a dummy certificate of completion, or whether your auditor will implement the changes without the SBE paperwork.

NEVADA:

I guess the other question I would have is whether the County Auditor acknowledged the proposal and assigned the affected territory to a new TRA based on the tax exchange agreement.

In this county, we have a master tax exchange formula for the districts, but I think the process is still pretty standard:

When we receive a proposal, we first notify the assessor and the auditor; the auditor then decides which new Tax Rate Area to assign the affected territory upon completion of the annexation. If you can find that letter (from the County Auditor) in your files, it should be pretty helpful.

You should also have rec'd a notice from the State Board of Equalization that indicates the roll year that the change will be effective.

I only mention these basics because there may be no problem at all, other than the 'natural' delays to which the process is prone.

SANTA CRUZ (3RD):

I suggest:

- 1) Institutional contrition and penance,
- 2) Using Rev. and Taxation Code sections 99(i) and (k), which allows property tax renegotiation after the fact. Note that it goes forward, and does not anticipate a recovery of past omissions.

Let's see what other folks come up with.

Jan Lopez

Jan Lopez, Executive Officer
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Shasta LAFCO

From: Shasta LAFCO <exec@shasta.lafco.ca.gov>
Sent: Monday, April 14, 2014 3:40 PM
To: 'Andy Nichols'
Cc: Jeff Kiser
Subject: RE: Negotiations re Deschutes Road Annexation
Attachments: Completion of PTE Negotiations.pdf

Importance: High

Thanks for the update. I hope you both are able to work this out; the proposal looks pretty good under the circumstances. The district and city do need to negotiate a contract for continuing AFPD services for all future annexations and that contract can establish a different rate --- there will be sufficient time to do that if your board changes its mind on this project. Know that the city can choose alternative agencies for fire service.

A four of things you may wish to advise your board about that could affect what happens in the end:

- LAFCO could decide to condition the annexation upon the city and AFPD negotiating an agreement to pay for fire service at the rates you mentioned. Then the boundary change would be completed with AFPC annexing, and CFPD and Shasta County Fire being detached.
- LAFCO could decide to condition the annexation upon the city negotiating a service contract with another fire agency for the portion of the annexation that does not include Cottonwood's territory. The annexation could be completed and finalized that way.
- LAFCO could just put the project on hold until the current negotiations bear fruit.
- Regardless of whether LAFCO approves the annexation, the filings with the State Board of Equalization cannot be made until the negotiations are completed. If not completed, the approval could be reversed and the proceedings terminated entirely. (See attached)

It might be useful for the district and city to take a look at the present opportunity to negotiate future acceptable tax exchanges through development of an agreement with the city, while taking note that the city could also choose, as an alternative to Anderson FPD, to contract with another agency for fire protection services to the Deschutes Road area.

I have attached a copy of an older letter addressing the fourth item on this list and the resulting actions taken by LAFCO in earlier years for projects who were unable to complete the property tax exchange negotiations pursuant to Revenue & Taxation Code 99.1 et seq.

Jan Lopez

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