

EXECUTIVE OFFICER'S REPORT

To The

Local Agency Formation Commission

TO:

Commissioner **DON CAMPBELL** (Chair) [City] Commissioner **MICHAEL KELLEY** [Supervisor]
Commissioner **JASON JACKSON** (Vice-Chair) [City] Commissioner **RAY CASTILLO** [Supervisor]
Commissioner **DAVID WEST** [Public]

Alt Commissioner **JACK TERRAZAS** [Supervisor]
Alt Commissioner **MARIA NAVA-FROELICH** [City]
Alt Commissioner **VACANT** [Public]

REPORT DATE: April 4, 2014

FROM: Jurg Heuberger, AICP, CEP, Executive Officer

PROJECT: **RANCHO-PORTER, BR # 1-08**
Proposed annexation approximately 210.43 +/- acres into the City of Brawley for the development into single family residential, multi-family residential, open space/parks, commercial and mixed use.
APNs 047-100-003-000; 047-100-004-000; 049-270-050-000; 049-270-051-000; 049-270-052-000; 049-270-053-000; 049-270-054-000

HEARING DATE: April 17, 2014 **TIME:** 9:00 AM

AGENDA ITEM NO: 10

HEARING LOCATION: IID Board Room, 1285 Broadway, El Centro, CA
(for directions call 760-353-4115)

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In summary & order)

- OPTION #1:** Approve the proposed annexation as presented by the Executive Officer and as requested by the applicant.
- OPTION #2:** Approve the proposed annexation as presented with modifications, following the hearing by the Commission.
- OPTION # 3:** Continue the hearing for not to exceed 70 days (end date June 27, 2014).
- OPTION # 4:** Deny the extension of services.

Project Data:

DATA & FACTS:

Project ID	BR 1-08	Brawley
Project Name:	Rancho-Porter	
Applicant/Proponent:	Development, Design & Engineering / Chuck Denney et al.	
Application Type:	Petition	
Application Filed:	January 11, 2008	EXHIBIT - A
Certificate of Filing:	January 15, 2008	EXHIBIT - B
Area/Size:	274.4 +/- acres (per Final EIR) [This number may be modified as per final annexation map!]	
Location/Legal:	See attached map and legal description	
Proposed Project:	Annexation	

TAX AGREEMENT:

Board of Supervisors Action:	Pending	EXHIBIT - C
City Resolution:	Ordinance No. 2010-13	EXHIBIT - G
Tax Split:	Auditor-Controller Letter - Pending	EXHIBIT - D

CEQA:

Lead Agency:	City of Brawley	
Documentation:	EIR, SCH # 2008021009	EXHIBIT - E

ANALYSIS

I: Project Description:

The project consists of approximately 274.4 acres of agricultural land. Of the 274.4 acres, the project proposes to develop approximately 210 acres into residential, commercial, mixed-use and open space areas. A Specific Plan has been designed for the project area to address development issues unique to the proposed project. Two development scenarios are included in the Specific Plan. The first scenario, the "Without Overlay," would include 114 duplex homes, 389 multi-family homes, 504 mobile homes, approximately 13 areas of parks, approximately 35 acres of commercial, 15 acres of stormwater retention facilities, and about 79 acres of roadways and public rights-of-way. The second scenario, the "With Overlay," would include 114 duplex homes, 389 multi-family homes, 342 mobile homes, approximately 13 acres of parks, approximately 53 acres of commercial, 15 acres of stormwater retention facilities, and about 79 acres of roadways and public rights-of-way. The project would be developed according to one of these two scenarios.

The project required approval by the City of Brawley for a General Plan Amendment, Pre-Zone Classification, Tentative Tract Map and the Specific Plan. The project also requires approval by Local Agency Formation Commission (LAFCO) for the annexation of the project area from the County of Imperial to the City, approval by California Department of Transportation for an encroachment permit, and by Imperial Irrigation District for approval of plans to underground Best Canal, Best Drain, and Bryant Drain.

City Council Approvals:

- 1) **ORDINANCE NO. 2010-12:** Dated December 7, 2010, by the City of Brawley rezoning the unincorporated territory adjoining the City. **EXHIBIT - F**
- 2) **ORDINANCE NO. 2010-13:** Dated December 7, 2010, by the City of Brawley approving the Specific Plan 07-02, Rancho-Porter. **EXHIBIT - G**
- 3) **ORDINANCE NO. 2010-43:** Dated December 7, 2010, by the City of Brawley amending the City of Brawley General Plan. **EXHIBIT - H**

II: County Land Use:

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for annexation is shown to be Urban for the future expansion of Brawley, and Agriculture.
- 2) *County Zoning:* A-2-U
- 3) *Surrounding Land Uses:* The project is contiguous to the City of Brawley at the west and north and is open agriculture to the south and east.

III: Sphere of Influence:

EXHIBIT - I

The proposed project is within the boundary limits of the current Sphere of Influence for the City of Brawley.

CEQA:

Environmental Impact Report SCH # 2008021009 with Brawley as the Lead Agency. **EXHIBIT - E**

NOTE: Certified Resolution from the City of Brawley is still required!

Cortese/Knox/Hertzberg Reorganization Act of 2000:

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, 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.*

Comment: The proposed project is to accommodate the development of a predominant residential community. This project has the potential to increase the population of the city, and over time has the potential to induce significant growth. It is not likely in the opinion of the Executive Officer that this will occur in the next ten years. The topography is generally flat and the drainage will be accommodated through an engineered design.

- (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 on the cost and adequacy of services and controls in the area and adjacent areas.*

'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

Comment: The change will result in a significant change in services for Brawley but not a reduction for the county. The SAP for the City has indicated as has the EIR that the City does have the capacity to service this project.

- (C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

Comment: The proposed project may affect the surrounding land uses insofar as the current and planned uses are still agriculture and urban uses tend to impact ag. There are no known social or economic interests near this project that would be affected.

- (D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

Comment: The proposed project is consistent with the LAFCO policies of Imperial LAFCO as well as the Cortese-Knox-Hertzberg Reorganization Act of 2000, as well as policies of the State of California. The project does however not address the continued loss of agricultural land.

- (E) *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*

Comment: This project will remove an amount of designated agricultural land.

- (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 of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

Comment: This project meets the requirements of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and LAFCO policies. This project is bisected by the HWY 111 corridor and therefore does extend the service needs of the project to the east side of HWY 111, which in and of itself will be a significant cost.

- (G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

Comment: Comment: The project is considered consistent with the Imperial County General Plan, and with the GPA by the City the project will be consistent with the City's plans.

(H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

Comment: This area will be within the City of Brawley's Sphere of Influence.

(I) *The comments of any affected local agencies.*

Comment: No significant adverse comments have been received for this project by any responsible agency.

(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.*

Comment: The City has indicated that it has adequate capacity to service this project area and that is shown by the City's SAP.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

Comment: The project as analyzed by the City of Brawley indicates that the City does have adequate water for this project.

(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 Section 65580) of Chapter 3 of Division 1 of Title 7.*

Comment: This project will not have an effect on the regional housing plans or needs.

(M) *Any information or comments from the landowner or owners, voters, or residents of the affected territory.*

Comment: None received as of the writing of this report.

(N) *Any information relating to existing land use designations.*

Comment: N/A

(O) *The extent to which the proposal will promote environmental justice. 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.*

Comment: The proposed inclusion is not considered to have an impact on environmental justice as the project is essentially being done to provide for the development of a new school for Imperial USD and does not otherwise create an impact that would environmental justice issues.

(P) *Other considerations!*

Comment: NA

Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the Holtville Tribune at least twenty (20) days prior to said hearing, and posted on the Web. In addition, direct mail notices were at least sent to all property owners within 500 feet in the incorporated territory and within one mile of the unincorporated areas.

Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, City of Brawley, El Centro Regional Medical Center, and the Applicant.

Conflict of Interest Statement:

To date (at the writing of this report) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing. The Executive Officer does not have any known conflict of interest, does not own any property within the project area, but does own a home within an older section of the City of El Centro.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

- 1: Certify the Environmental Impact report SCH # 2008021009 as certified by the City of Brawley.
- 2: Make the finding that this project with the conditions imposed herein (or as modified) is in substantial compliance with the provisions of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy, and Procedures.
- 3: Make the findings pursuant to Gov. Code Section 56375 that:
 - a) The project has been pre-zoned under the City of Brawley's current zoning Ordinance.
 - b) The project is prohibited per section 56375 (e) from being "re-zoned" for a period of two years following annexation. If a re-zone is enacted by the City within the next ten years, the City shall notify the County and LAFCO.
 - c) The project is contiguous to the City, does not create an island, and is a logical extension of the City within the sphere of Influence, and or urban area plan.
 - d) The protest proceedings pursuant to Part 4 commencing with Section 57000 are hereby initiated, and are in compliance with the resolution of approval by the Commission.
- 4: Approve the **Annexation**/subject to all of the following conditions:
 - A. Authorize the Executive Officer to forward the Resolution of approval to the City of Brawley as an information item and for compliance with all relevant conditions imposed herein. (*Pursuant to the Cortese/Knox/Hertzberg Reorganization Act of 2000, enacted through AB 2838, a conducting authority process, i.e. the City being the Conducting Authority, no longer exists and the LAFCO has been delegated the Conducting Authority Process*).
 - B: Pursuant to Cortese-Knox-Hertzberg, authorize the Executive Officer to record the annexation with the County Recorder and the State Board of Equalization, ONLY upon compliance by the applicant and the City, with all applicable conditions, payment of requisite fees, and receipt of all documents necessary and required from the proponents, the City and/or other agencies.
 - C: The Annexation boundary shall be as per map and legal description (**Exhibit – K**) attached hereto. The annexation shall include all contiguous Roads; Road Right of Ways; Canals, Canal Right of Ways; and Public Easements. The final annexation map shall be prepared by a California Licensed Engineer licensed to practice in the Category of work to be performed. Said final map shall be reviewed by the Surveyor of the County of Imperial and the Public Works Director of the City of Brawley to assure that the map complies with the correct boundary and surveying requirements, as well as legal descriptions.
 - D: The City of Brawley shall transmit to the Executive Officer **certified copies** of all approvals given or required to be given by the City of Brawley in approving the land use projects reported herein, including tax agreements unless that information has already been submitted.

- E: The City of Brawley shall within 90 days of the hearing by LAFCO, approving the annexation, submit to the LAFCO a full City Boundary Map depicting the new annexation as part of the overall City Boundary. This City Boundary map shall be signed by a licensed Engineer and shall be submitted as follows;
- a) A digital copy in AutoCAD 2009 or later format
 - b) A 24" x 36" or larger copy
 - c) A 18" x 24" copy.
- F: Upon receipt of the City Boundary Map required in condition E, the Executive Officer shall transmit said map to all affected public agencies, utility providers, including but not limited to law enforcement, Assessor, etc.
- G: The applicant (petitioner) and/or the City as appropriate shall provide to LAFCO the following items in order to complete the processing of the annexation.
- 1: Eight (8) copies of the Annexation maps and legal descriptions prepared by the licensed engineer, and one "Mylar" copy meeting the size established by the County Recorder's office.
 - 2) Check made payable to the State Board of Equalization as required by Statute.
 - 3) Check payable to LAFCO as determined by the Executive Officer to fully offset the cost of processing the application, including all costs incurred by County or City departments charged with the responsibility to review any portion of this project.
 - 4) A letter from the Petitioners agreeing to the terms and conditions of the LAFCO and waiving all rights to an appeal, or reconsideration of the LAFCO decision, unless petitioner can show that a technical error occurred that would have or could have altered the decision of the LAFCO.
- H: The annexation shall not be recorded until all conditions have been completed and all costs paid in full.
- I: The City of Brawley shall not change any of the zone(s) within the boundary of the project annexation area for a period of two years from the date of recordation, subject to the Government Code Section in the Cortese/Knox/Hertzberg Reorganization Act of 2000. The City shall notify the LAFCO and County of any proposed change of zone within the Boundary area at least 90 days prior to any such Council Hearing, if such is requested prior to the termination of 24 months from recordation. If the City does change the zone or the envisioned land use analyzed within this land use process, in the future and it affects any tax split agreements with other agencies, then the City shall be required to make the appropriate adjustments, with County and as applicable the other agencies.
- J: The City shall not enter this property into a "redevelopment" program or such other program that would adversely change the Fiscal impacts or in any way affect any fiscal impacts or tax sharing agreements with other agencies. IF the City following annexation and after recordation does change the project so as to change the Fiscal information/outcome upon which LAFCO and/or other agencies relied, the City shall be required to fund any deficit that may occur as a result of their change.
- K: All conditions of approval made by or given by the City as evidenced by the Resolutions or Ordinances adopted by the City shall be part of the Conditions of LAFCO in this annexation as if written herein.
- L: The City shall require all IID canals and drains that are within or contiguous to the project, to be under grounded (or eliminated), except for the Canals or drains identified by the IID as not feasible!. Applicant shall provide to LAFCO assurance acceptable to the Executive Officer which may include bonds or other surety. This annexation shall not record until the City has provided the requisite assurances that the canals/drains will be undergrounded.

- M: The annexation shall not record until the City provides to LAFCO a hard copy as well as a digital copy of the “mitigation” measures that will be required to be implemented for this project. These mitigation measures will be made a part of the Resolution of approval by LAFCO and to the extent applicable will be required to be implemented or bonded for as appropriate. The Executive Officer shall have the authority to withhold recordation until this has been assured.
- N: The annexation shall not record until the City provides to LAFCO a certified statement from the City engineer that the City has the capacity to provide sewer and water services to this project.
- O: The City shall transmit a copy (certified) of the resolution or ordinance of approval by the City of the Tract Map. This annexation shall not record until such approval is received by LAFCO.

LAFCO Policy:

The proposed extension of services application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the IID has (according to the Service Area Plan and/or its resolution of application) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the area.

cc:	County Board of Supervisors County Executive Officer County Assessor Raymond Loera, Sheriff George Pacheco, Public Works Tony Rohoutas, Fire/OES Mike Rood, County Counsel Jim Minnick, Interim Planning Director/County Southern Calif. Gas Co.	Applicant Douglas R. Newland, Auditor – Controller Bill Brunett, Public Works Director Brad Poiriez, APCD Imperial Irrigation District, General Manager County Office of Education City of Brawley DD&E BR 1-08, Rancho-Porter
-----	--	--

ATTACHMENTS:

- EXHIBIT A - Application
- EXHIBIT B – Certificate of Filing
- EXHIBIT C – County Minute Order & Tax Agreement
- EXHIBIT D – Auditor-Controller Letter
- EXHIBIT E – Environmental Impact Report
- EXHIBIT F – City Ordinance # 2010-12
- EXHIBIT G – City Ordinance # 2010-13
- EXHIBIT H - City Ordinance # 2010-43
- EXHIBIT I – Sphere of Influence Map
- EXHIBIT J – Map & Legal Description