

**Minutes from the October 18, 2006
LAFCO Hearing Related to
LAFCO 3050/3053**

Attachment 4

MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006

DISCUSSION ITEMS

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF SAN BERNARDINO FOR THE SAN BERNARDINO GENERAL PLAN UPDATE AND ASSOCIATED SPECIFIC PLANS (SCH NO. 2004111132), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3053; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3053 – SPHERE OF INFLUENCE REVIEW (EXPANSION) FOR CITY OF SAN BERNARDINO (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) – APPROVE STAFF RECOMMENDATION

AND

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF SAN BERNARDINO FOR THE SAN BERNARDINO GENERAL PLAN UPDATE AND ASSOCIATED SPECIFIC PLANS (SCH NO. 2004111132), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3050; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3050 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) – APPROVE STAFF RECOMMENDATION, WITH ADDITIONAL CONDITION THAT CITY INITIATE ANNEXATION OF ISLANDS

LAFCO conducts a public hearing to consider two proposals submitted by the City of San Bernardino (hereinafter referred to as "the City"), a minor sphere of influence expansion (LAFCO 3053) and a reorganization including annexation of two areas (LAFCO 3050), to address territory included within the Arrowhead Springs Specific Plan not currently a part of the City. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and landowners and registered voters within and surrounding the sphere expansion and reorganization areas pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald points out the proposal areas on the maps on the overhead display, noting that the reorganization includes the annexation of two separate areas. She says that the purpose of these proposals is to consolidate the land holdings of American Development Group/Campus Crusade for Christ within a single land use and service jurisdiction, the City, for development of the project.

(It is noted that Commissioner Nuaimi arrives at 9:07 a.m.)

Ms. McDonald discusses that following submission of the applications, in consultation with the City, in order to prevent the creation of two totally-surrounded islands, LAFCO staff expanded LAFCO 3050 to include two additional parcels, one in Area 1 along the southern boundary, which is privately-owned, and the other in Area 2 along the eastern edge, owned by the Puritas Water Company. She notes that at the September hearing, when the status report on these proposals was presented, Commissioner Hansberger questioned the exclusion of the territory of the Highway 18 right-of-way in both proposals within in Sections 3 and 10 of Township 1 North, Range 4 West. She reports that staff is recommending that both proposals be expanded to include these areas so that Highway 18 from the City's existing boundary to the northern terminus will be in the City.

As outlined in the staff report, Ms. McDonald discusses the history of the Commission's involvement with the Arrowhead Springs area, noting that the historic Arrowhead Springs Hotel has been included in the City's sphere since the early 1970's. She reports that the Commission expanded the City's sphere in 1995-96 to include the balance of Campus Crusade for Christ's land holdings with the proviso that it would not entertain any annexation until the General Plan, Specific Plan and environmental review process was completed for the area. She says that discussions with the City and landowners have taken place during the last 10 years and culminated in November of 2005 with the adoption of the Arrowhead Springs Specific Plan and direction to City staff to submit these applications as soon as possible.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

Ms. McDonald discusses two circumstances that arose following submission of these applications which she says further complicated the processing of these applications. First, she discusses that environmental litigation was filed by the Center for Biological Diversity against the City's adoption of the Environmental Impact Report (EIR). She reports that a hearing was held and the Judge's decision indicated that he "did not find the program EIR to be faulty" but he requested additional information regarding the City's choice of alternatives in the environmental document. She says the City adopted an amended Statement of Overriding Considerations on October 2, 2006 resolving that issue; however, she points out that appeals can be filed against that decision. Therefore, she says staff is recommending that if the Commission moves forward with approval, there be a condition that if the environmental determination is overturned, the City will submit an out-of-agency service contract to continue to provide service to the area so there will be no interruption in service.

Ms. McDonald says the second issue relates to island annexations. She reports that at the April hearing, the Commission decided to override its policy to await a determination on environmental litigation and also discussed with the City the issue of the connection of island annexations to development-related applications, requiring that the City address its island areas. She says the City committed to submitting the island annexations. She discusses a resolution adopted by the City Council on October 4 which indicates that the City in July 2006 initiated annexation of six island areas and committed to address the balance of the islands with a time schedule for initiating the annexation of Islands 1 and 6 by January 2007, and Islands 2, 7 and 8 by January 2008. She says the City has indicated that it proposed this phased approach based on the cost for serving the island areas exceeding the revenues that the City would receive from serving them, so the City could not afford to annex them all at one time. She says that position was questioned during the status report consideration last month and the Commission requested that the City provide information in a Fiscal Impact Analysis showing how it arrived at its deficit for services. She reports that the City has provided that information, which is attached to the staff report. Ms. McDonald says that LAFCO staff reviewed that information and felt that one element missing was a determination of the revenues that would be received from the annexation of the Arrowhead Springs area.

(It is noted that Commissioner Williams arrives at 9:17 a.m.)

As fully outlined in the staff report, Ms. McDonald discusses how staff arrived at a calculation that shows a minor, but positive, revenue stream for the City in annexing the balance of its islands, using a sales price of \$100,000,000 for the project. She explains that staff calculated what it believes the costs for delivery of service would be for Fiscal Years 2007-08 and 2008-09, including the costs for the Del Rosa island already annexed that were not included in the City's calculations; then staff applied property tax revenues and Vehicle License Fee (VLF) revenues. Ms. McDonald says that staff concurs with the City that annexation of older areas is very costly, but she points out that the County currently contracts with the City to serve these islands within the City's sphere, noting that law enforcement must respond to these areas in an emergency regardless of boundaries and without receiving any payment. She says roads "meander" in and out of City boundaries which calls for annexation of the island areas; that the Commission's policy to tie island annexations to revenue-generating, development-related proposals is appropriate and should be adhered to; and that it is a policy declaration for the Commission whether or not to accept the City's phased-in approach.

Ms. McDonald discusses the sphere expansion proposal, stating that the staff responses to the factors of consideration which the Commission is required to review are outlined in the staff report. She says staff supports the expansion of the City's sphere, including the expansion to include the balance of the Highway 18 right-of-way, to include the land holdings of the property owner within the Arrowhead Springs Specific Plan.

Ms. McDonald discusses the reorganization proposal, stating that staff has responded in the staff report to the four issues which the Commission must review for all annexation proposals. First, she discusses the boundaries. She says that with the recommendation of staff to expand the proposal to include the Highway 18 right-of-way and the two island areas, there are no further boundary issues to present. She discusses the land uses, which are outlined in the staff report. She shows pictures of the Hotel, the Specific Plan area and a map of the topography on the overhead display.

MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006

Commissioner Hansberger says he would like to hear some discussion before the conclusion of the hearing about the appropriateness of extending development up in the Waterman Canyon area. He says it appears to be a more challenging area for the provision of services than in the larger area to be annexed because of the terrain.

Ms. McDonald presents a "flyover", showing the general location of the area. She points out that the Specific Plan anticipates 1,350 residential dwelling units in a mixed variety of development standards, the expansion of the existing Hotel and a new hotel, a golf course, and over one million square feet of commercial development. She notes that the City's Specific Plan will be its pre-zoning and says those zoning designations must hold for a minimum of two years following annexation unless the City Council makes specific determinations at a public hearing to change that.

Ms. McDonald discusses the financial effects and service considerations, stating that staff has three areas of concern—water, wastewater and fire protection. She says the City's Plan for Service indicates that domestic water service is to be provided by the Del Rosa Mutual Water Company (hereinafter DRMWC), a shareholder-owned mutual water company governed by the Department of Corporations. She says that the Water Supply Assessment provided as a part of the application, which indicates what the available water to provide this service will be, is required to be delivered to the Department of Corporations in order to revise the boundaries and shares of the DRMWC. She notes that the only existing service of the DRMWC is to the Arrowhead Springs Hotel, and says staff questioned the DRMWC providing service to 1,350 dwelling units, two hotels and one million square feet of commercial/office space rather than the City of San Bernardino Municipal Water Department. She reports that staff expressed concerns to the City, which responded through its City Manager and the Municipal Water Department that the City supports the use of the DRMWC and the West Twin Creek Water Company to provide water, wastewater and irrigation services to the site. She discusses other concerns, including that if the application to revise the boundaries and shares of the DRMWC, which has not been filed yet with the Department of Corporations, is not approved, then the Plan for Service upon which the Commission based its decision is flawed. She says staff is also concerned that there is no identification of the total number of shares anticipated for the primary owner nor an outline of how those will be transferred to shareholders in the future. She says staff wants to understand the mechanics of this mutual water company and is requesting that more information on service delivery be provided to the Commission before it makes a final determination. Ms. McDonald says irrigation water is to be provided by the West Twin Creek Water Company, but she says there is no identification of the mechanics for how this mutual water company will operate through its shareholders to deliver irrigation water following annexation. As outlined in the staff report, she says that sewage collection services are to be provided by the DRMWC, which is supported by the City Water Department. She discusses staff's concerns with this choice and says staff believes that the mechanics for operating this private sewerage corporation should be provided before the Commission makes a determination because the Commission will have no ability to enter into the operations of this agency or the City following annexation. With regard to fire protection, Ms. McDonald says staff's concern is that this area is part of the State Responsibility Area lands and she says that designation will be removed upon annexation. She reports that the City's response indicates that it is amenable to contracting with the California Department of Forestry and Fire Protection for services such as bulldozers, aircraft and specialized hand crews. Ms. McDonald says that staff believes that all this information regarding service delivery should be provided prior to approval of this annexation, which is why staff is recommending a continuance of the reorganization to allow for submittal of that information.

Ms. McDonald discusses the environmental considerations, as outlined in the staff report. She says that the Commission's Environmental Consultant Tom Dodson & Associates has reviewed the City's environmental documents and provided the recommendations outlined in the staff report. She notes that staff has included a recommendation that the Commission make the finding that the expansion of the sphere and annexation areas to address the Highway 18 right-of-way does not make any changes to the conclusions in the environmental documents provided to the Commission, nor does that addition provide for any additional adverse environmental effects that would require further environmental evaluation.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

Ms. McDonald states that the findings required by State law and Commission policy are outlined in the staff report and she says that staff believes this is an appropriate area to become part of the City for future development. She reiterates that staff's only concerns relate to the mechanisms for the service delivery. She says the staff recommendation is outlined on pages one and two of the staff report and include that the Commission: (1) take the actions listed for the environmental review; (2) approve LAFCO 3053-Sphere of Influence Expansion for the City, with the modification to expand the amendment area to include the Highway 18 right-of-way previously excluded within Sections 3 and 10; (3) adopt LAFCO Resolution No. 2941 setting forth the Commission's findings and determinations; and (4) indicate its intent to approve LAFCO 3050-Reorganization to Include City of San Bernardino Annexation No. 360 and continue it to the November 15, 2006 Commission hearing in order to receive additional information related to the provision of services. Ms. McDonald says if the Commission believes it has received sufficient information to respond to staff concerns, the Commission can take the additional actions listed on page two of the staff report, which include that the Commission: (1) modify the environmental actions listed to include a decision on LAFCO 3050; (2) modify LAFCO 3050 to include the Highway 18 right-of-way not a part of the original proposal within Sections 3 and 10; (3) approve LAFCO 3050 with the standard terms and conditions and the additional condition listed to address service mechanisms in the event of court approval of environmental litigation filed on the project; and (4) adopt LAFCO Resolution No. 2942, to be prepared by LAFCO staff, setting forth the Commission's terms, conditions, findings and determinations.

Chairman Biane opens the hearing and says the City will give its presentation first.

Mayor Patrick Morris thanks Ms. McDonald and her staff for a very careful, detailed and professional analysis. He discusses the history of the Arrowhead Springs Hotel. He says the challenge is to restore this asset to what will be the "crown jewel of the East Valley" and says it will be like the historic Mission Inn in Riverside and a destination resort. He says that at buildout it will be a place of employment for about 2,500 residents and will add millions of dollars to the coffers of the County, the City and the School District. He says this project has been in the planning for a decade by Campus Crusade for Christ, the City, and the American Development Group, under the leadership of Tom Thornburgh. He says the comprehensive Specific Plan creates a special community that is clustered in a way that makes the greatest sense in terms of land use; that 73% of the development will remain in open space; and that the project requires a unique set of plans to service it in terms of sewage, water and irrigation systems. He says he trusts the Commission will approve the application. He says there are staff members present to answer any questions.

Chief of Staff Jim Morris introduces City Manager Fred Wilson who he says will address issues regarding the island annexations and why the City is asking for a phased-in approach, which is primarily because of financial issues. He says there are questions as to when money will become available from Arrowhead Springs to help the City provide services in the islands and the time required for the City to ramp up and provide adequate services, specifically for public safety.

Mr. Wilson says that Ms. McDonald has outlined the issues well on the City's position on the remaining 13 islands. He says that currently there are only five islands remaining in question. He explains that when the City processed its island application, the concern was that the City was "upside down" financially, but he says that issue went away since AB 1602 passed. He reports that the bigger issue was service delivery, based on an analysis by the Police, Code Enforcement and Public Service Departments which showed that there are significant impacts to the City in annexing the islands. He says the bottom line is that the City is agreeing with the Commission's directive but is asking that it be done in a phased manner, with two islands by January 2007 and three more about a year later. He says it will take time to ramp up and provide services in an effective manner to all the islands.

Jim Morris says the other issues in the staff report and discussed today involve the service delivery model for water and wastewater services to the development. He says Stacey Aldstadt, General Manager of the City's Water Department, has worked with the developer to evaluate which service model is appropriate.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

Ms. Aldstadt says that the City believes staff concerns have been adequately addressed through responses from the City and supporting documentation from American Development Group. She says LAFCO staff's primary concern is with the City's choice to use a mutual water company structure, which she says perhaps would be less desirable if using the City's Water Department for service delivery were an option. She points out that history has shown many robust, viable mutual water companies providing excellent service in the State, and says there are also examples of deteriorating and poorly funded public water agencies. She says the City has exhaustively outlined the reasons why its Water Department is not prepared to serve the project. She says the City Water Department would have to operate separate water and wastewater systems, far from its base of operations at significant costs to ratepayers who would not benefit from the service. She says the City's planning efforts, including a ten-year capital improvement plan and a ten-year financing plan do not contemplate operation and maintenance requirements for a remote, geographically isolated and separate water and wastewater system. She discusses that leaves two options, either a private, investor-owned company like Fontana Water Company, or a mutual, nonprofit water company, and she says in her opinion a mutual water company is a far better choice. She adds that history has shown that the use of a mutual water company is very appropriate in areas where it is geographically challenging to get service up to an area from a municipal water agency. Ms. Aldstadt says she reviewed the Water Supply Assessment, master plan for facilities and the water rate study, which were all prepared by very competent consultants for the Arrowhead Springs development, and she says the developer must get through an approval process in order to prepare the tentative maps and other documents to be submitted to the Department of Corporations to have the shares assessed. She says the developer has given careful consideration to all the comments provided by the City Water Department over the last two or three years, but she says no water agency can answer every contingency but must make the best plans it has available and move forward with those plans. She notes that there is a preliminary assessment of two shares in the water rate study she reviewed, but she says they cannot determine a fixed number of shares to determine the assessment against each share until the planning process is completed and the developer moves forward with more specific mapping and his submission to the Department of Corporations. Ms. Aldstadt says there was a comment that a concern has been expressed that there may not be adequate oversight into the water quality aspects of the water and wastewater plans. She reports that the water system will be subject to all the regulatory oversight of the Department Health Services; that the wastewater services will be regulated by the Regional Water Quality Control Board; and that the mutual water company will have to meet all the regulatory requirements that a public water agency must meet. She says it continues to be her recommendation that the Board of Water Commissioners support the annexation of this area based on the thorough review her Department conducted on the issues raised and she says the Board of Water Commissioners acted on staff's recommendations and supports the City's actions.

Jim Morris states that the final issue raised in the staff report was regarding the provision of fire service and protection to the project, especially in the wildland interface area. He introduces Assistant Fire Chief Mike Conrad to address those issues.

Chief Conrad says he has worked on a few of these types of projects, pointing out that Mayor Nuaimi will recall that these same types of questions were raised about annexing State Responsibility Areas related to Hunter's Ridge. He reports that this project proposes a new fire station that will allow a response time to all the areas within five minutes; that the station will be staffed 24 hours a day, seven days a week and will have a brush engine. He discusses that there are four agreements now in place that are utilized in working in wildland urban interface areas. He says there is an agreement with the U.S. Forest Service allowing access to all their wildland equipment and says there is an agreement with the San Bernardino County Fire Department, which has some protection responsibilities in the upper end of Waterman Canyon and has engines and bulldozers available for the project. He says there also is the Seven Points of Light document that allows cities to have access to State wildland assets by request. Chief Conrad says that if this development goes in, he sees it as a real benefit to the north end of San Bernardino from a fire protection standpoint because it provides a greenbelt and there will be access to areas that previously were inaccessible. He adds that with new construction methods and better planning for access, there generally are no major issues in the new neighborhoods as far as wildland fires encroaching on them. He says he does not think that providing protection to that community from a wildland aspect will be any more of an issue than it is anywhere else.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

To address Commissioner Hansberger's question regarding the development in the upper area of the project around Highway 18, Mr. Morris says that area is planned for a golf course with about 76 low density, single-family residential units surrounding the golf course. He notes that water delivery might be of particular concern and explains that the plans provide for different pressure zones and booster stations within the project area. Commissioner Hansberger says he looked at the density and his question was whether it is practical and appropriate to try to provide adequate fire and flood protection and alternate access from the area at those densities. He asks how they will develop that area in a manner that is consistent with development in the Canyon and provide greater safety than has been provided in the past.

Valerie Ross, Director of Development Services, states that when the developer approached the City and they mapped out the constraints, the topography was, and still is, the key concern. She discusses that the City kept in mind many issues, including the MWD's pipeline and easements, an earthquake fault zone, access and biological issues, when laying out the Specific Plan and says the City prepared a program level EIR since they had no details on any specific projects. She says they hope that through approval of this annexation, American Development Group can start submitting specific development projects noting that when the first tract map comes in, it will be required to meet all City requirements. She says that the fire station mentioned by Chief Conrad will happen in the first phase of development.

Commissioner Hansberger asks that if development occurs, would it not also be appropriate for the City to become the serving agency for all the Waterman Canyon area. He asks how the City would suggest that the Commission address service provisions for the existing community if the viability of serving that area above the proposed annexation area is cut off. Jim Morris responds that the City would be willing to sit down and talk to LAFCO staff about adequate service delivery to the homes in that area. He notes that the City has concern about what happens up in that area since there will be development going in below it, and he says that is why the golf course use was put in--to provide for better flood protection in that area. Commissioner Hansberger comments that earlier in the discussion the City talked about the difficulty of annexing areas because it was not economically viable or it was difficult for the City to provide services. He says he thinks the same argument could be made here since the homes in that area will be isolated from services they would normally receive for fire and police protection but it is not viable for the City to provide those services. He says those questions should be answered up front and there should be an answer for what comes next. Mr. Morris says that is a valid concern which was not initially on the City's radar screen, but it is now. Commissioner Hansberger comments that the reason some islands are not economically viable is because the City annexed around them, leaving non-viable areas. He notes that no one here today did that, but he says the City should take responsibility for that lack of viability. He says there needs to be a plan to resolve that problem because they are creating a functional island for service. Mr. Morris agrees and says that the City and its administration are committed to cleaning up boundaries and annexing the remaining islands. He discusses, however, that the issue is being able to provide adequate services upon completion of the annexation and says they need a ramp up time. Ms. McDonald discusses that if the Commission wishes, it can recommend today that a sphere study be conducted to address the balance of the privately-owned lands along Old Waterman Canyon Road and she points out that the mutual water company can be expanded to include private lands without LAFCO consideration. Commissioner Hansberger says he does not want to get too ambitious today. Mr. Morris reiterates that the City is willing to discuss this issue.

Commissioner Hansberger says he wants a better understanding of the water service issue. He asks whether a subdivision of the City Water Department could be created or whether the City could contract to operate the mutual water company. Ms. Aldstadt responds that the question has often been asked as to what it would take for the City to provide service to Arrowhead Springs. She says it would take a huge capital improvement endeavor and she has been asked what would happen if the developer gave her a check for the amount it would take to put in the capital improvements. She says they would have to embark on a huge capital improvement project that is double what the Department is trying to accomplish over the next several years, which would require her to at least double her staff to insure that the capital improvements go in the right way. She says they would have to look at how to operate that system which would function like a separate system with a separate water supply and separate facilities, and may ultimately require putting in treatment plants. Commissioner Hansberger asks who will take responsibility

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

for assuring the delivery of services if the mutual water company is not successful in providing the services. Ms. Aldstadt discusses that the City has talked to the developer to make sure that all the facilities built are consistent with City standards so that if the mutual water company failed, which she says she thinks is a remote possibility, the City would be in a position to take over and operate the system. She reiterates that the Water Department does not want to do that. Commissioner Hansberger discusses that he is overly sensitive on this issue since the Special Districts Department is in the process of acquiring the Arrowhead Manor Water Company and the people have to be told that it will cost them a lot more money to receive water than they used to pay.

Chairman Biane says he heard the Water Department say it is too expensive to provide the service and it does not want the developer to just write the Department a check. He points out that in the water analysis, the developer has to make improvements to the system anyway, so he says the testimony does not seem consistent. Commissioner Nuaimi says Ms. Aldstadt has commented that to expand the City's current system to serve this area would be a huge capital outlay, but he says she has identified that this is a stand alone service area. He says that the City has shares in the mutual water company. Ms. Aldstadt explains that the City owns the shares because it has water rights in the area but she says her recommendation would be that the City divest itself of its shares since there is no benefit in having them. Commissioner Nuaimi says the City already has a relationship through the ownership of shares in the mutual water company and, if the mutual water company fails, the citizens will be coming to the City; so he asks why the City does not do what is right and develop the stand alone capability for service. Ms. Aldstadt discusses that the issue is the on-going operation and maintenance of a system that is geographically remote and is operated in a completely different fashion than the current system. She says there is no good reason why the mutual water company will not work; it has been in existence since 1922; it has been providing water and wastewater services adequately; and, based on her review of documents submitted, it has adequately planned to staff the company and adequately planned for the facilities. Commissioner Nuaimi reiterates that the City has ownership in that company and it is semantics as to the structure. He says the City already has the operating water department in place but has indicated that it would be difficult for the City to provide service into this remote area, but that somehow the mutual water company would be able to provide that service. Ms. Aldstadt responds that a mutual water company is uniquely positioned to provide services in areas like this area; it is on location there with its staff, water supply and facilities, while the administration for the City Water Department is at City Hall. Regarding the City's shares in the DRMWC, Ms. Aldstadt says there is a long history behind the City's shareholder status. She says the only thing the shares have done for the City is given it some water rights out of Waterman Creek. She says the City does not operate the DRMWC; she has no oversight over it nor has she ever managed any portion of it; and she says it makes the most sense at this point for the City to divest itself of those shares. Mr. Morris says it is important to acknowledge that there are other possible service models. He discusses that the City could do this, and has evaluated that possibility, but says the preference is for a mutual water company. He discusses that they know the ultimate buildout that the water company will serve so they know what system needs to be designed for that buildout, so the building blocks to create a stable water company are there. He says that should the City need to step in, which is a risk it acknowledges, the City should be able to take over that operation since it was built to City specifications and standards.

Commissioner Sedano says that Ms. Aldstadt did an excellent job in her presentation and says he thinks the Commissioners and its staff are concerned about the DRMWC and its ability to serve this area. He asks what the company's annual budget is, how many employees it has, what its financial resources are, and how many, if any, certified operators it has. Ms. Aldstadt responds that the DRMWC's water rate study outlined how it would ramp up its operations to meet the needs for the system to serve this development. She says that off the top of her head, she believes they are proposing six employees--four field supervisors, a General Manager, and some type of clerical support. She explains that the financial resource was an assessment against shares that would be issued in the company stocks. Commissioner Sedano asks what will happen to the City's water rights if it divests itself of those shares. Ms. Aldstadt explains that currently the City does not take any water because it is stream flow and would require some treatment. She says the City might be able to argue that the stream flow entitles it to some groundwater rights but she says there is no incentive to make that argument. She says the City can make as much extractions from the groundwater basin as long as it does not export the water. She also points out that if

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

there is an assessment against the shares for the financing of the system up there, the City would not want to have to pay the assessments against its shares.

Commissioner Cox asks Ms. McDonald to address the statement made that Commission approval is necessary in order to get answers from the Department of Corporations related to additional shares. Ms. McDonald says she believes that relates to the on-going tract maps that will need to be filed to develop the actual number of parcels. She says the DRMWC needs to prepare an application to the Department of Corporations but cannot do that until the number of parcels is known since there will be shares per parcel or water unit. She says the Specific Plan needs to be activated for the entirety of the area. Commissioner Cox asks whether LAFCO does service reviews on mutual water companies. Ms. McDonald explains that private and mutual water companies are a part of the discussion of a municipal service review, but she says that an applicant wanting to expand or modify a mutual water company in some way only has to show the Department of Corporations that LAFCO was contacted to be sure there is no conflict. She says that LAFCO reviews those applications and provides a letter to indicate there is no other public agency to provide the service in that area. She adds that staff responds to the Public Utilities Commission in the same way. Commissioner Cox comments that water districts are enterprise funds and she says that in this planned development, the infrastructure or its installation will be borne by the developer. She says she finds it difficult to understand why the City would not want to assume that responsibility and provide the assurances the Commission is looking for. Commissioner Cox says the comment was made that it would be difficult for the City to provide service for the islands. She asks what services are currently being provided in the islands by the City. Ms. McDonald responds that currently the City contracts with the County to provide fire and paramedic services to all the island areas within its sphere. She says the City Police respond in an emergency situation in unincorporated areas but they do not provide an ordinary beat pattern. She says that the removal of these islands and placing the responsibility for service ultimately with the City will, in staff's view, make services less costly because there will be less of an in/out pattern of County/City jurisdiction for delivery of service.

Chairman Biane points out that between the City and the developer, they have absolute control of the mutual water company at this point. He says that, like with the annexation of the additional islands, the City is asking to take the easy way out here instead of doing the right thing. He says that even if it were to be a stand-alone system, it would seem better that the City be the water department for those residents also. He says his recommendation will be that the City initiate annexation of all 13 islands by January 1 of next year.

Commissioner Gonzales asks whether anyone from DRMWC is present today to speak on its behalf and to answer Commissioner Sedano's questions.

Michael Groves states that he works for American Development Group, the developer, which is also part of the board for both the DRMWC and the West Twin Creek Water Company. He says they provided information to Ms. Aldstadt and other City staff to respond to LAFCO's issues and he says she has accurately reported the position of both mutual water companies. He says that probably one of the principal issues for the companies is that they are the owners of the water rights for the area and that except for the City's fractional interest of about 12%, the City owns no water rights in the area. He says the surface waters are owned by both mutual water companies and there are separate groundwater rights owned by Arrowhead Water and Power along with the property owner. He says the water rights are retained entirely by those companies, and not by the City; and he says that due to that, and the fact that the DRMWC was providing service to the Arrowhead Springs properties, when Mr. Thornburgh spoke with Mr. Kersey (former General Manager of the Water Department) several years ago, it was indicated that the City would defer that service to the DRMWC rather than the City taking it on. In response to inquiry of Commissioner Cox, Mr. Groves reports that the DRMWC, which was formed in 1901 and restructured in 1922, had several wells. He says that currently there is one well that the DRMWC operates within the boundaries of the Arrowhead Springs property and several other wells on site owned by the property owner. Commissioner Cox asks if an Urban Water Management Plan has been filed. Mr. Groves responds that one has not been filed in the past year but he says they contemplate filing one and understand that is part of the next step that has to be performed.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

In response to inquiry of Commissioner Hansberger, Ms. McDonald says she does believe that islands are costly to serve. Commissioner Hansberger asks whether for that reason she would recommend that they be annexed or not annexed and she responds that her recommendation is that the islands be annexed. Commissioner Hansberger discusses that the creation of these islands happened because annexations were granted around these areas creating islands. He says they must quit doing that and try to correct the mistakes of the past by either taking the time to do this right or get commitments to make it right.

Commissioner Nuaimi points out that they heard specific testimony that with the passage of AB 1602, these are financially viable islands and that the issue is the staffing and provision of service. Ms. McDonald responds that the City Manager has indicated that with the passage of AB 1602, the question of viability has been tempered a great deal and that the question is the timing required to ramp up to serve the islands as far as personnel to perform the required services. She says the issue for the Commission is whether it agrees with the City's phasing proposal. Commissioner Nuaimi states that he has not heard a number yet that adds up to 13 islands for the City. Ms. McDonald explains that there originally were 13 islands discussed last April when the Commission discussed the issue of its environmental litigation policies. She reports that the Del Rosa island annexation was initiated and has been annexed to the City, leaving 12 islands. She says those are not all of the City's islands but are the ones that fall under the City's position for what are substantially surrounded. (As outlined in the staff report, the City initiated annexation of six of these islands in July and they are scheduled for Commission consideration on November 15). She says the City has committed to annexing five islands in a phased program, and the Commission can accept the City's commitment provided through the City Council's adopted resolution; or it can condition approval of the Arrowhead Springs reorganization upon initiation of all the islands. She says that would hold in abeyance further processing for not more than six months and failure to complete the reorganization within six months would terminate the application.

Jim Morris says the City does not want these applications held up on this phasing issue. He says the City is willing to accept a condition that all island applications be filed within six months. However he does note that they will have to go to the City Council for approval.

Mayor Morris asks that this issue be taken off the table; he says this must not be an issue because he wants these proposals driven forward today. He reports that the voters will be asked to approve a quarter cent sales tax increase to ramp up police service; he says the City has committed resources to hiring 14 new officers and is in the middle of that hiring now. He says the City will annex those areas.

Commissioner Nuaimi says he appreciates the City's commitment and encourages the City, in looking at the fiscal analysis, to look at other revenue sources such as the Community Development Block Grant funds, gas tax subventions, franchise fees and, in the future, Measure I. He says that as they talk about inadequate infrastructure, a lot of those monies are per capita allocations and he points out that if Proposition 1B passes, the City is losing out on that money based on per capita allocations. He adds that he is very sensitive about the ability of cities to staff up because he says Fontana hired 50 officers in the past two years and it was not easy.

Chairman Biane calls on others wishing to speak on this item.

Roy Ferguson, a resident of San Bernardino for 34 years, says he is opposed to annexation. He says that as that area is developed, there will be more traffic on Waterman Avenue and he points out that there is a lot of wildlife in the area. He says there were three fires within one mile of that area and he says that if the Santa Ana winds blow, 2,000 firefighters could not control a firestorm and no planes or helicopters could go up to help fight a fire. He says illegal fireworks in the north end of San Bernardino will also cause a problem in that high fire danger area.

David Richardson, a resident in the upper Old Waterman Canyon area for 30 years, says that what is being proposed is ridiculous and all he has heard today is "I don't know," "we can't staff it right now;" "we don't have resources." Mr. Richardson says that after the floods came down in 2003, 16 people lost their lives. He says he has mountain lions, bobcats, and all kinds of wild animals in his backyard; he lives in the County because he likes it and does not want to live in the City. He says he has his own water and wants

MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006

to be left alone. Commissioner Hansberger asks whether he lives in the annexation area and he responds that he does. Mr. Richardson discusses that after the flood in 2003, right after the fire, all the bridges were wiped out. He says the City never did anything with the bottom bridge; that it is still horrible. He says the County did a marvelous job and put in a couple of nice bridges and redid the road. He notes that a lot of trash is dumped in that area and says the City cannot keep up with the vegetation on the side of the road. He asks that the Commissioners drive up and take a look at the area. Chairman Biane points out that there is a problem with dumping in all the County's urban land interfaces.

Rebecca Kiel says she has lived in Waterman Canyon, within Area 2, her whole life and that her dad has lived there 30 years. She says they love the wildlife and love the feeling that they are about 500 miles away from the City, when they are only about 30 minutes away. She says the City does not take care of the area it already has but she says the County has put in flood control so they feel safe. She says they like living in the County; that they are not just worried about the wildlife and environment but are also worried about being protected. She says they were lucky that the fire went around their home; but she says not all homes survived the flooding.

Tony Cook, who has lived in Waterman Canyon for 39 years, reiterates what Mr. Richardson said about the bridges. He says there are three bridges; that the County took care of its two, but the City still has not repaired its bridge. He says he called the City about four months ago and was told that work on the bridge would not start for another year. Mr. Cook asks that if the golf course will be in Area 2, whether the City will widen Waterman Canyon Road and, if it does, whether the City will take the land from the people living there. Ms. McDonald responds that the Hotel is in Area 2 and she says the golf course will not go in that area. Mr. Cook says he is very happy with his well and does not want to be forced to buy water or to have to pay for water he does not use. He asks if the City puts in a sewer system, whether the homeowners there who are on septic systems would be required to hook up at their own expense. Ms. McDonald explains that sewer is to be provided by the mutual water company and she says the City would not require the homeowners there to connect to the system. She says that one of the speakers mentioned he was in one of the annexation areas and she points out that the only properties within these areas are owned by Campus Crusade for Christ/American Development Group, except for the two parcels discussed earlier, one which is privately-owned and the other which is owned by Arrowhead Puritas Company. She says no other property owners or homeowners in Waterman Canyon are affected by this proposal; that the MWC is proposed to serve the existing and proposed development through the Specific Plan. She tells Mr. Cook he will not be a part of the City and cannot be required to connect to those facilities. Mr. Cook says his preference is to stay in the County. Ms. McDonald reiterates that if he lives in upper Waterman Canyon, he is not a part of this annexation; although she says he may be a part of the community discussed earlier by Commissioner Hansberger related to the larger Waterman Canyon issues.

Chairman Biane asks if there is anyone else wishing to speak on this item and there is no one. Mayor Morris says that Ms. McDonald has pointed out that this property is all in the hands of Campus Crusade for Christ/American Development Group, and that no other properties are affected by this proposal except for the Arrowhead Puritas parcel (and the privately-owned parcel). He says the issue of the islands has been taken off the table and the only issue before the Commission now is how the City packages services to people in this development. He says the City has been in discussions about this with Campus Crusade for Christ for about a decade; that they have been developing the Specific Plan for almost five years; and that they have crafted a unique proposal. He says the risks are the City's; that the mutual water company has proposed to design a system that is consistent with and compatible with the City's system so that if the mutual water company fails, the City will be able to assume responsibility for service with the least amount of disruption or expense. He says if this proposal dies, the whole development may die; and it may be years before the project could be resurrected in a different design. He asks that the Commission consider the importance of the City developing this asset to the jewel it must become; that it is very important for the City and the East Valley in terms of employment and a tax base.

Commissioner Pearson compliments the City on its willingness to negotiate and says he is glad to hear that the island issue can be taken out of the picture. He says there are concerns over services, and not just water. He says he thinks the Commission is looking for the ability to insure the public that the City is

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

willing to commit to assuring that the services required in that area will be adequate, based on the concerns expressed. He says he thinks there are some credible plans, but he feels they are lacking in some of the areas, particularly from a timing point of view. Regarding the water issue, he says the discussion about the mutual water company may or may not be valid and he does have some concerns about that; but he says he was looking at the paperwork to see if there were any definitive plans or agreements in place as to what the City would do if the mutual water company could not provide the service and something occurred, such as a fire. He comments that he has seen nothing mentioned about the watermaster, San Bernardino Valley Municipal Water District, and what it is playing and whether this proposal might have any impact on the Bunker Hill Basin. Commissioner Pearson commends the City for taking the time, effort and expense to try to preserve the Hotel and says that underscores the need for the City to ensure that what is in place will protect the Hotel and the people living in the area. He says the City's planning process needs to reexamine how that can be achieved and what kind of specific agreements can be developed to accomplish that. He notes that the issue of building the fire station is encouraging but says he does not have a feel for when that will be done. He says he is putting the ball back in the City's court to examine relationships that may need to be developed contractually or to address concerns that the City does have some plans to put into effect if timing is not right or conditions suddenly change.

Commissioner Nuaimi says there was comment from the public about the potential danger the neighborhood would face given the fire scenario. He says that he is a resident of Hunter's Ridge and reports that during the fire that was referenced earlier, the residents found that the neighborhood acted as a fire break due to the various plans and development standards that were in place and the building materials used, which helped prevent the neighborhood from catching fire. He says there was a comment about the construction of a fire station in the area but he points out that in the Plan for Service, under Fire and Paramedics, under Improvements, it is indicated that "At this time, no additional capital facilities have been identified as a result of the proposed project." He says the Plan for Service needs to be changed to reflect that there will be a fire facility. He says that when the City looks at the fiscal analysis, he hopes that the City will get more than an average assessed valuation of \$330,000 for housing in this beautiful community up in the Canyon by the golf course. He says when he looks at the numbers, he has no doubt the resources are there to provide the service. He says he has serious concerns about the provision of water; he says there is currently a mutual water company there with no customers and he asks if there are any employees working for it today. He says that if the City would come back and say it is going to provide this service with a structure that makes sense, it would put all their minds at ease because the City has a very capable management team, capable personnel and infrastructure in place to provide the service. He notes that Hunter's Ridge also has wildlife running through its neighborhoods.

Commissioner Gonzales says this is a commendable and long due effort, but she says she shares the concerns addressed today regarding water service, flooding and fire. She says she hears the City's wholehearted commitment to be the responsible party for incidents; however, she says this situation merits a continuance to allow the City to address the deficiencies discussed today and provide modifications that might lead to Commission approval.

Commissioner Nuaimi asks whether the City has attempted a friendly annexation in the island areas which failed. Mayor Morris responds that no attempts have been made to survey the residents to move forward with such an annexation; he says they have only used the power of the law. Commissioner Nuaimi discusses that if the City attempted a normal annexation of these islands, then the utility tax could be applied, generating revenue for the City to provide the services. He says if that failed, then the City could go through the island annexation process. He says he would hope that the County Supervisors would support the City and encourage those residents that it is in their best interest to eliminate the horrific boundaries for service provision. Mayor Morris says the utility tax is a real discourager of property owners in those areas and says the City's attempts historically have not met with great favor because the tax is substantial. Ms. McDonald points out that the City did propose to annex all the islands a number of years ago but she reports that met with heavy opposition and was terminated based on majority protest.

Commissioner Hansberger says this is a very important but difficult set of conditions because the development of the area around the Hotel promises a lot of positives for the future that deserve to occur

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 18, 2006**

and he is delighted there is an effort to get that done. He says he remains frustrated by the mistakes of the past and is determined to learn from them and try not to repeat them. He discusses the annexation of Reche Canyon, which was an essentially rural area, by the City of Colton, which felt the area would be improved by putting in higher density housing. He says LAFCO went along with that, which resulted in a lot of inconsistencies and complexities in that area. He says it falls to the annexing entity to address the issues and needs of the residents who have established a lifestyle and to protect and guarantee that lifestyle. He says he is in favor of this proposal but also wants to know that there are protections for the future of the residents in the Canyon, which they want preserved. He says the people in the Upper Canyon, above the reorganization area, deserve to know that their lifestyle will be respected and that the Commission will address service issues since they will functionally become an island. He says he is willing to move forward today, relying on a new Commission and new City leadership, and is willing to gamble that the Commission has all the necessary commitments to address these issues. However, he says he will not be patient for about more than a year because these issues must be fixed as quickly as possible.

Commissioner Cox moves approval of staff's first set of recommendations outlined in the staff report (recommendations one through four on pages one and two), including approval of LAFCO 3053, the sphere expansion as modified, an indication of the Commission's intent to approve LAFCO 3050, the reorganization as modified, with an additional condition that the City initiate annexation of the balance of its islands by May 2007, and continuance of the reorganization consideration to November 15, 2006 to receive additional information related to the provision of services to the area. Commissioner Pearson seconds the motion.

Chairman Biane says he agrees with the motion and also compliments the City for its efforts. He says he is comfortable with the answers regarding the fire service and says he has confidence in Assistant Chief Conrad and his experience with the County and that the City has a capable firefighting force in place that can work well with the California Department of Forestry and Fire Protection and the U.S. Forest Service. He says water is the big issue for him. He comments that the City Water Department is such a capable group and is doing such a good job and asks why it just does not take on this endeavor. He says he appreciates the Mayor's commitment regarding annexing the additional islands and says he hopes that when the Commission considers this proposal again in November that the City Council will have taken a formal action regarding the initiation of the islands.

Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

Commissioner Hansberger comments that he has had a couple of brief conversations with the Mayor and appreciates his commitment to work with everyone on the issues that will be discussed in the next couple of items. He says the spirit of cooperation is very important and he agrees with Chairman Biane that the City has assembled a great team.

The Commission takes a break at 11:30 a.m. and reconvenes at 11:40 a.m., with no change in members present.