

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

REGULAR MEETING

9:00 A.M.

NOVEMBER 18, 2009

PRESENT:

COMMISSIONERS:	Jim Bagley, Alternate	Mark Nuaimi, Chairman
	Kimberly Cox	Richard P. Pearson
	James V. Curatalo	Robert Smith, Alternate
	Brad Mitzelfelt, Vice-Chairman	Diane Williams, Alternate

STAFF:

- Kathleen Rollings-McDonald, Executive Officer**
- Clark Alsop, Legal Counsel**
- Samuel Martinez, Senior LAFCO Analyst**
- Michael Tuerpe, LAFCO Analyst**
- Rebecca Lowery, Deputy Clerk to the Commission**

ABSENT:

COMMISSIONERS:

- Paul Biane**
- Neil Derry, Alternate**
- Larry McCallon**

REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – CALL TO ORDER – 9:05 A.M.

Chairman Mark Nuaimi notes for the record that there is a quorum for the hearing and calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Nuaimi requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

1. Approval of Minutes for Regular Meeting of October 21, 2009
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of October 2009 and Note Cash Receipts
4. Review and Adoption of Contract with the County, County Auditor/Controller-Recorder for Collection of Outstanding Agency Payments

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendation for the reconciled payments and the review and adoption of the contract with the County, and County Auditor/Controller Recorder for collection of outstanding payments have been prepared and copies of each are on file in the LAFCO office and are made a part of the record by their reference herein.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Commissioner Williams moves approval of the consent calendar, second by Commissioner Cox. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Nuaimi, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane, Curatalo (Commissioner Smith voting in his stead), McCallon (Commissioner Williams voting in his stead), Mitzelfelt.

CONTINUED/DISCUSSION ITEMS:

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3141; AND (2) LAFCO 3141 – SPHERE OF INFLUENCE AMENDMENT FOR SAN GORGONIO PASS WATER AGENCY (EXPANSION) AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (REDUCTION) – APPROVE STAFF RECOMMENDATION TO CONTINUE TO THE JANUARY 20, 2010 HEARING

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3097; AND (2) LAFCO 3097 – SPHERE OF INFLUENCE AMENDMENT FOR BEAUMONT CHERRY VALLEY WATER DISTRICT (EXPANSION) AND YUCAIPA VALLEY WATER DISTRICT (REDUCTION) - APPROVE STAFF RECOMMENDATION TO CONTINUE TO THE JANUARY 20, 2010 HEARING

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3098; AND (2) LAFCO 3098 – REORGANIZATION TO INCLUDE ANNEXATIONS TO BEAUMONT-CHERRY VALLEY WATER DISTRICT AND SAN GORGONIO PASS WATER AGENCY, AND DETACHMENT FROM SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT - APPROVE STAFF RECOMMENDATION TO CONTINUE TO THE JANUARY 20, 2010 HEARING

Chairman Nuaimi notes that staff is requesting that agenda items 5a, 5b and 6 be continued to the January 20, 2010 hearing. Senior LAFCO Analyst Samuel Martinez states that staff is available to answer any questions from the Commission.

Commissioner Cox asks if the items that are requested to be continued to the January 2010 hearing will overburden that agenda given the items already slated to be presented at the January hearing. Executive Officer Kathleen Rollings-McDonald states that the agendas for the coming year will be reorganized to ensure that all items to be presented to the Commission are heard. The agenda for January 2010 will include the items related to the Beaumont-Cherry Valley Water District, the City of Adelanto re-organization, the sphere expansion for the City of Victorville, and the Sphere of Influence Establishment for the Helendale Community Services District. Commissioner Cox asks if the January hearing will be an all day meeting, to which Ms. McDonald states that the meeting will go to at least noon.

Chairman Nuaimi states that the hearings usually start at 8:30 a.m. when the agenda is heavy.

Commissioner Cox asks that the Commission be informed if the meeting start time is to be changed to an earlier time so that the Commissioners that travel longer distances can plan accordingly. Ms. McDonald states that once the January agenda is finalized, staff will inform the Commission of the January 20, 2010 hearing start time accordingly, but that the Commission should plan on an 8:30 a.m. start time for the January 20, 2010 hearing.

Commissioner Cox moves approval of the items, second by Commissioner Pearson. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Nuaimi, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane, Curatalo (Commissioner Smith voting in his stead), McCallon (Commissioner Williams voting in his stead), Mitzelfelt.

CONSIDERATION OF LAFCO 3067 A THROUGH 3067F CITY OF SAN BERNARDINO ISLANDS
(It is noted that Commissioner Curatalo arrives at 9:09 a.m.)

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Ms. McDonald provides a general overview of information related to all six island areas, noting that in July 2006, the City of San Bernardino submitted a proposal to annex six substantially surrounded unincorporated islands of territory; the territory is located in the city's northeastern sphere of influence known as LAFCO 3067. The proposal was submitted in response to LAFCO Commission requirements outlined at the April 2006 Commission hearing related to the annexation of the Arrowhead Springs Specific Plan. That Commission policy identifies the position that a City when annexing lands proposed for new development will be required to also address its pockets, peninsulas, and islands of unincorporated territory. At the February 2007 hearing the Commission separated LAFCO 3067 into six separate considerations, identified as LAFCO 3067A through 3067F.

At the November 2006 and February 2007 hearings, the Commission reviewed the six islands and determined to expand Island Areas #1, #4 and #5. Ms McDonald states that if each area meets the criteria established by the Cortese-Knox-Hertzberg Local Government Reorganization Act criteria contained in Government Code Section 56375.3 the ability of registered voters and landowners to protest the jurisdictional change will be eliminated.

Ms. McDonald reviews the Vicinity Maps on the overhead display.

Ms. McDonald states that 21 days ago LAFCO staff mailed notification to individual landowners and registered owner within and surrounding the areas to be annexed, broadcasting the annexation and providing the direction as to who to contact or where on the LAFCO website to go for information pertaining to the annexation and the LAFCO process. She states that the questions from the public following the notification that have come into the staff office are typical for annexation proposals with common annexation myths that annexation will automatically increase taxes. She says that annexation cannot raise the general (ad valorem) property taxes, as outlined by Prop. 13. In an island annexation proposal, extension of existing taxes or assessments, such as a utility tax, is not allowed as the ability to protest and require an election has been removed by the State Legislature. She says that what annexation does do is change the distribution internally of those property taxes; at present portions of the property tax that the residents pay for services go to San Bernardino County Fire Protection District, CSA 70, CSA SL-1. Those revenues will now be transferred to the City to help support its operations. In addition, questions were asked of staff regarding existing uses, many residents inquired as to whether they will be allowed to continue to do what they are currently doing with their property. LAFCO staff's response has been that if the activity is legal in the County as it currently exists, then it will be legal in the City following annexation. Ms. McDonald notes, however, if the current land uses are not a legal use in the County, annexation will not remedy those situations. She also states that a number of people have expressed concern regarding the postal numbering system for City addresses. She says that if the residents currently have a 5-digit street address, upon annexation those addresses will be shifted to the City's 4-digit system; this will decrease confusion for emergency service response.

Ms. McDonald states that in the staff report, LAFCO staff has provided general information that applies to all the Island Annexations. When the Commission made the original determinations regarding boundaries, they directed staff to consider each island individually and so each island was assigned its own designation, 3067 A-F, each to be presented as a separate item, however, the City's Plan for Service addresses the islands as a whole.

Ms. McDonald states that the island annexation procedures that the legislature put into place removes the ability of landowners and voters to protest annexation if the territory meets certain specific criteria. It is highly uncommon for any politician to remove the ability of anyone to vote on a proposal; however, their view was that it is significantly important to address service confusion, service inefficiencies for these smaller areas that are surrounded or substantially surrounded by a municipality. It is simply good government to reduce the confusion, to provide a cohesive pattern for the delivery of government services.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Government Code Section 56375.3 was put into place, and was amended in January 1, 2004 which increased the size limitation to 150 acres and removed the prohibition on the area being a part of a larger unincorporated area. LAFCO staff has outlined in the staff report the specific criteria that the Commission must address for each island in order to approve the proposal with out a protest proceeding.

The criteria is that the area does not exceed 150 acres and constitutes the entire island of unincorporated territory; the study area constitutes an unincorporated island surrounded by the limits of a city or an adjoining city or constitutes a reorganization containing a number of individual unincorporated islands; the area is totally or substantially surrounded; the study area is substantially developed or developing, based on findings that there is the availability of public services; there is the presence of public improvements in the area, and there are physical improvements on many, if not most, of the properties; the study area is not prime agricultural land as such is defined by LAFCO statutes; and the study area will benefit from the annexation or is receiving benefits from the annexing city.

She states that in addition, in March 2005, the LAFCO Commission adopted its own policies related to the processing and evaluation of island annexations and established their definition of substantially surrounded. That policy definition indicates that if 52% of linear length of the boundary is comprised of the annexing city or adjoining city the territory would be deemed substantially surrounded and it also identified that the boundary could include impediments to service such as freeways, flood control district properties and/or the National Forest. The Commission also indicated that they would not include any territory that was currently a part of a county redevelopment area in an island annexation unless the county consented to it. And, the Commission required that the City provide a Community outreach program to provide information to the residents regarding land use issues, taxation issues and service delivery questions in the area to be annexed.

Ms. McDonald conducts a general review of the Updated Plan for Service dated November 2009 which was submitted by the City and states that the Plan for Service outlines service delivery to all six island areas. Some of those services are water and sewer service; the water services will remain with East Valley Water District, whose boundaries are unaffected by the island annexations. She says that law enforcement will transfer from the County Sheriff to the City Police Department. The City has indicated that its Police Department will absorb this territory into its existing beat system; however, the City has indicated that no additional police personnel will be provided due to the City's existing hiring freeze. The Financing of this service will be through the ad valorem property tax received by the City from within the annexation areas. Solid waste services, which are currently provided by private haulers, will transition over a five year period to the City collection services. Ms. McDonald notes that at each Commissioner's place a letter has been provided to the Commission from a private waste company stating that they provide waste services in areas 4 & 5 and oppose the annexations due to the loss of their franchise area.

(It is noted that Commissioner Mitzelfelt arrives at 9:19 a.m.)

She states that fire protection and paramedic service are currently provided through a contract with the San Bernardino County Fire Protection District. LAFCO staff has outlined some concerns in the staff report related to the contractual agreement between the City and the County regarding the contract amount and the implications of these annexations. She states that the staff report identifies that the current revenues for fire protection within the annexation areas and the other unincorporated islands total \$487,000 annually. The contract was put in place several years ago with the understanding that it represented 75% of the CSA 38 revenues. However, in review, the current property tax allocation for county fire from all of these islands including the special tax is over one million dollars. The question to the City then becomes will the county invoke the reductions to the contract that are available, which would be to deduct the full share of the CSA 38 revenue from the contract; that would then reduce the contact to about \$350,000. She states that staff from the City Fire and County Fire met to review the situation, but the outcome has not yet been provided to LAFCO staff, however it is LAFCO staff's belief that the two parties are working to remedy the questions so that the effect on the City's finances for the fire contract will be minimal.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Ms. McDonald states that what is of importance to both the Commission and the residents is the 7.75% utility users' tax. As is noted in the staff report and also included in the notice to landowners and registered voters the utility tax will not be extended to the annexed areas, the law does not allow for the extension of a special tax without the ability for the residents to protest the annexation. By removing the ability to protest the annexation, the city is restricted to not charge the utility users' tax. She says that in the future as voters of the City if the matter of utility users' tax is on a ballot, they will have the right to vote and then will become subject to payment if the ballot item passes.

Ms. McDonald states that the City Council of the City of San Bernardino adopted Resolution No. 2006-348 on October 4, 2006, which outlines the phasing of the remaining island annexations identified by the Commission in its April 2006 hearing. As has been noted, the City was responding to requirements of the Commission to address 13 unincorporated islands. There are five remaining islands to be annexed. The City has identified a phased plan for the annexation of these remaining islands. LAFCO staff is of the understanding that the phasing will take place acknowledging the 3 year deferral at the request of the City and the Commission has been provided a letter from the City Manager indicating that he will continue to work with the City Council and with LAFCO to implement the adopted resolution. Ms. McDonald reviews on the overhead the map that details the areas slated for future annexation phasing.

Ms. McDonald states that a note to be added to the record is that when the LAFCO staff sent out the notices for islands 4 & 5, the Registrar of Voters transposed the list for registered voters in those areas. LAFCO staff corrected the mailing list once it was discovered and remailed to those registered voters. So, they received two mailed notices.

CONSIDERATION OF (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067A; AND (2) LAFCO 3067A – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 1) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067A – Reorganization to include City of San Bernardino Annexation No. 361 (Island 1) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews on the overhead the map for LAFCO 3067A – Area 1.

She says that Area 1 is generally located north of Marshal Boulevard, east of Sterling Avenue, south of a combination of Foothill and Piedmont Drives and parcel lines on the west abutting the San Manuel Casino parcel. The island as modified by the Commission comprises 135+/- acres, it is 80% surrounded by existing city boundaries, so it is substantially surrounded and complies with the Commission's policy declaration defining substantially surrounded. The study area is substantially developed; there are public improvements and physical improvements in the area; it does not contain any prime agricultural land as defined by LAFCO statutes. She states that the area will benefit from the annexation and has benefited from services provided by the City through contract with the San Bernardino County Fire Protection District. The City conducted an outreach program for the residents in this area prior to submission of the application as directed by the Mayor's office, LAFCO staff has sent individual notice to each landowner and registered voter in the area and in the surrounding area, and the area is not included within an established County Redevelopment Area.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

She states that the area meets the criteria for an island annexation and it is LAFCO staff's analysis that the Commission is required to approve LAFCO 3067A and waive the protest proceedings, as required by Government Code Section 56375.3. The Land Uses for the area are listed in the City's General Plan as Residential Suburban, which allows 4.5 dwelling units per acre or 7,200 square foot minimum lot size and Public Facility for the flood control channel.

Ms. McDonald states that the environmental review has been conducted by the Commission's Environmental Consultant, Tom Dodson and Associates. She states that Mr. Dodson has indicated that the island annexation is statutorily exempt from the California Environmental Quality Act (CEQA) as the Commission has no discretion in its review of this proposal and must approve the project.

Ms. McDonald states that LAFCO staff has included the findings as part of the staff report, as required by Government Code Section 56668, which indicates that the proposal will resolve jurisdictional confusion for the delivery of governmental service to these developed areas.

She states that LAFCO staff's recommendation for Area 1 is for the Commission to adopt the Statutory Exemption; modify LAFCO 3067A as presented to the Commission to include the detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, its Service Zone PM-2, County Service Area 70 and County Service Area SL-1; approve the proposal with the following conditions – (a) that the City of San Bernardino's 7.75% Utility Users Tax on properties will not be extended to the annexation area, (b) all street lights currently the responsibility of the County Service Area SL-1 will be transferred to the City of San Bernardino upon successful completion of the annexation, (c) that the standard terms and conditions of approval that include the "hold harmless" clause; that the Commission wave all protest proceedings, as required by Government Code Section 56375.3; and that the Commission adopt LAFCO Resolution No. 3071 setting forth the Commission's findings and determinations concerning this proposal.

Chairman Nuaimi opens the Public Hearing.

Bob Curlin states that he is opposed to the annexation. He states that the outreach mentioned by LAFCO staff was minimal. He says that many residents have commercial vehicles or recreational vehicles in front or on their property, not in the streets but not behind a covering as required by the City of San Bernardino. He is concerned that he will be fined for the parking his recreational vehicle. He states that it is a burden on the landowners to change from a 5 digit address to a 4 digit address, as it affects credit reporting and will also require the notification of address change to all bill collectors. He also questions whether the contribution from the San Manuel Indians will continue to be received by the Fire and Police Departments. He states that it is his opinion that the City of San Bernardino has a bad reputation and does not want to be a part of the City, as he is very happy with San Bernardino County and does not wish to change.

David Drake states that he is opposed to the annexation. He states that he does not want to change to a San Bernardino address. He is concerned with what the ramifications of having a recreational vehicle parked on his property are with regards to code enforcement and is satisfied with the fact that the utility tax will not be extended to those in the annexation area and is not pleased that his vote was taken from him. He does not want a 4 digit address; he feels that it would be a burden to change his address and is displeased to learn that he will not be able to use Jack's for his disposal service. He asks if a member of staff can clarify what the City's policy will be concerning parking commercial vehicles in front of ones house.

Christopher Fleming states that he is concerned with changing from a county resident to a city resident. He asks to review on the over head a map of Area 1 and asks why the entire area is not included in the annexation. He would like to have the City take the annexation determinations to the residents so that they can vote on whether they want to be part of the City. He states that he would like to know why certain areas were not included in this annexation and asks that a member of LAFCO staff or City staff address

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

this question. He also states that he has not been satisfied with the service provided by the City Fire Department.

David Mellor states that he is opposed to the address change; he also states that he has not been satisfied with the service provided by the City Fire Department and that the County has always provided good care to the residents in his area. He states that he is opposed to becoming part of the City.

Chairman Nuaimi closes the public hearing on 3067A and asks for comments from the Commission.

Chairman Nuaimi asks staff for clarification of who provides fire service for Area 1, to which Ms. McDonald states that the City of San Bernardino provides fire service in this area due to the fact that the San Bernardino County Fire Protection District does not have a facility in that area. The contract with the City has been in place for a number of years. She says under mutual aid agreements, which includes the San Manuel Fire Department, the closest responder responds to these areas through a contract that has been in place since 2006. She says that County Fire is available if the Commission should have any questions specific to service delivery.

Ms. McDonald states that in response to the question of why the annexation areas were taken in sections, island annexations have an acreage limitation and so these annexations were designed to meet those criteria. Chairman Nuaimi states that the Commission expanded the island area west of the flood control area when the proposal first came before the Commission; the City of San Bernardino took the area up to the flood control property and the Commission determined that there was a natural boundary to the west and expanded it accordingly.

Ms. McDonald states that with regard to the commercial vehicle parking, the City of San Bernardino is available to answer to that question. Chairman Nuaimi asks for staff from the City of San Bernardino to address questions that have been brought before the Commission and asks for LAFCO staff to show the vicinity map of all the islands on the overhead. Chairman Nuaimi addresses the comment made that the Commission should refrain from approving piecemeal annexations and he points out that the existing layout of land is a result of piecemeal annexations and that historically if Cities only annex those who are willing to be annexed, the City ends up with small, disparate islands that are not easily or readily served by County services. This is why the state legislature passed the law to allow for this island annexation provision.

Valarie Ross, City of San Bernardino, Development Services, states that the City currently allows recreational vehicle and/or commercial parking behind the front plane of the house as long as there is a fence in front of it. It is not permitted in the drive way and it is only permitted on the street for 48 hours for loading or unloading purposes.

Chairman Nuaimi asks how it will effect the statement that if it is legal in the County it is legal in the City grandfather provision. Ms. McDonald states that the City would have to answer that question and that it is currently a legal county use. She asks Ms. Ross from the City of San Bernardino if the residents will have a transitional period of time that would allow them the time to come to code compliance. Ms. Ross states that she will confer with the City's legal counsel for the answer to Ms. McDonald's question.

Chairman Nuaimi asks if the code enforcement process is proactive or if it is reactive to a complaint.

Ms. Ross states that typically code enforcement is addressing a neighbor complaint, so it is reactive.

Ms. McDonald asks Ms. Ross if the citizens are accustomed to recreational and commercial vehicles parked in the driveways or out in front of the home, unless the city receives complaints regarding the parking of the vehicles in the driveway, code enforcement will not be sent out to assess these residents.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Commissioner Williams asks if parking the recreational and commercial vehicles on private property is legal in the County, to which Ms. McDonald responds that there is no one from the County present to address the question, but LAFCO staff will research the question and inform the Commission of the answer and informs the Commission that parking of vehicles is not a land use issue, but rather a code enforcement issue.

Chairman Nuaimi comments that in cases where County areas become part of the City through annexation, like the recent Fontana Islands, many time County code enforcement issues such as the parking of commercial vehicles, are also forwarded to the City, which took about three years to get closure to some of the issues. Ms. McDonald states that there are currently existing County code enforcement issues in all six of the island on file with the County and adds that the staff report outlines that LAFCO staff will be meeting with City staff to provide for a smooth transition for code enforcement as well as development activity such as building and safety.

Commissioner Cox asks for the map of the next segment of islands to be shown on the overhead display. Commissioner Cox asks when the other areas noted on the overhead map will be annexed into the City of San Bernardino, to which Ms. McDonald responds that those areas will be the topic of future discussions with the City. Commissioner Cox states that those unincorporated areas are a continued concern for the seamless provision of service and she expects that those will come before the Commission in a timely manner.

Ms. Ross states that the City makes a distinction between recreational vehicles and commercial vehicles. Through the City's development code a recreational vehicle is considered as a non-conforming use that goes with the property and would be grandfathered and allowed to continue if it has been established with the County. The City's municipal code addresses the issue of commercial vehicle parking and the commercial vehicle parking would not be permitted in residential areas. Commissioner Williams asks if there is a distinction of size for commercial vehicles since a commercial vehicle can be a pick-up truck that is required for a personal business. Ms. Ross states that there is a size distinction and she will provide the size limitations for the Commission.

Chairman Nuaimi clarifies that if it is a legal non-conforming use today, it would be grandfathered into the City. Once the annexation is final, any new vehicles would have to conform to the City development and municipal codes. The same applies to properties that currently house horses. Those properties will be grandfathered into the city and the land use will continue, however, once the property no longer houses horses, the grandfather provision is null after 6 months. If a property is a horse property, but there are no horses on the property at the time of annexation, there is no grandfathering; the property must conform to the City statutes.

Ms. McDonald states that so long as it is a continuous use of the property there is no change, but if it is stopped for a period of time, then the grandfathering is lost.

Chairman Nuaimi states that the issue and impact of the address change needs to be resolved and asks what the time frame is for the residents and the City.

Ms. McDonald states that the City will be mailing out notices to the residents being annexed. She says that she would like to clarify that if a mailing address is currently Highland, California as some residents in the north eastern portion have, that will not change; the United States Post Office decides whose post office and what postal name is used for an address. The only change will be the numbering system, and the City will notify all those affected of the new sequence. She says that the City is planning on an implementation period of one year for the transition.

Chairman Nuaimi states that the 5 digit goes to 4 digits but the zip code does not change. The zip code defines the city per the US Postal Service, so if a resident is Highland now, they will continue to be

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Highland but will be able to vote in the City of San Bernardino. Commissioner Mitzelfelt asked if the City or the Postal Service would be willing to make the change in the City name. Ms. McDonald states that the northern end of San Bernardino, east ward to highway 30 have had a Highland mailing address for more than 40 years. Unless the City was to seek to change that specifically, which they have never done, it would remain Highland, per the United States Postal Service.

Commissioner Curatalo states that as a fireman he can appreciate the logic in having matching sequential street addresses for providing expedited emergency services. He asks if the City of San Bernardino will be providing any assistance to the residents during the transition period.

Les Fogassy, Development Services, City of San Bernardino, states that the address change process will take about a year to complete, and states for the record that, not just the five digit addresses will change, the four digit addresses will also change if they are not in sequential order and do not align to the City's grid, they will also change. The City will work with the post office and the post office will cross reference both addresses for about a year. The City will be sending template letters to the landowners that they can use to notify their creditors of the City's change in address. The City will begin mailing out the notifications to the landowners about a month after the effective date of the annexation which will have both the old address and the new address. Ms. McDonald clarifies that all the landowners and residents will receive a master letter that they can provide to their creditors noticing them of the change of address.

Chairman Nuaimi states that the question of the contribution from the San Manuel Indians to the fire and police departments in the area remains and asks Ms. McDonald for clarification. Ms. McDonald states that the San Manuel Indians contribute to the City of San Bernardino, the County Sheriff, and the City of Highland. The San Manuel Indians help support the safety activities throughout that region and she has not received any information that the annexation will change those contributions nor will it effect the mutual aid agreement the San Manuel Fire Department has with County and the City.

Chairman Nuaimi asks if the contribution was part of the revenue considered in the Plan for Service for the annexation. Ms. McDonald states that contributions are not considered revenue since they are at the good will of the provider and are not considered such during LAFCO staff's review of proposals.

Valarie Ross states that they City's Municipal Code in section 10.16.120 does not allow parking of commercial vehicles of 10,000 lbs. gross vehicle weight rating in residential areas. She says that Title 19 of the Municipal Code, which is the City's Development Code, in Section 19.62 addresses non-conforming using and non-conforming structures. Both the Municipal Code and Development Code can be viewed on line through the City's Web Page and copies are also available at the City Clerk and Development Services offices.

Chairman Nuaimi states that with regards to the Community Outreach, the landowners and the registered voters have received two letters from LAFCO staff and the Outreach was conducted by the City in 2006 when it was originally started. Ms. McDonald states that in 2006 when the application was first circulated the City did provide extensive newspaper coverage. LAFCO staff has a standard distribution of information listing that has received all the information regarding the annexation. She says that LAFCO staff has also twice provided individual notice to all landowners and registered voters and also has made all the notice information available on the LAFCO Website.

Chairman Nuaimi reviews on the overhead the recommendations provided by LAFCO staff.

Commissioner Cox moves approval of the item, second by Commissioner Williams. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Curatalo, Nuaimi, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, McCallon (Commissioner Williams voting in his stead).

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067B; AND (2) LAFCO 3067B – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 2) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067B – Reorganization to include City of San Bernardino Annexation No. 361 (Island 2) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews the map of the area on the overhead.

Ms. McDonald states that Island #2 is a 10+/- acre parcel generally located north of Lynwood Drive and west, south and east of parcel lines which comprise the City of San Bernardino boundaries. It is a private condominium complex. She states that this area is a unique situation in that part of the cul-de-sac is in the City of San Bernardino and the other part is in the County of San Bernardino. The area is 68% surrounded by existing City boundaries; the land use designation for this area is Residential Suburban which promotes development of single family detached units. She says that the Commission's Environmental Consultant, Tom Dodson and Associates has reviewed the proposal and has indicated that it is his recommendation that the area is statutorily exempt from CEQA based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. She says that LAFCO staff is recommending that the Commission make the determinations as outlined in the staff report and approve the annexation of LAFCO 3067B with the understanding that the 7.75% Utility users Tax will not be extended to this area upon annexation and that the City will be assume all street lighting responsibilities.

Chairman Nuaimi opens the public hearing and asks if there are members of the public wishing to speak on this item. Hearing and seeing none, Chairman Nuaimi closes the public hearing. He asks for comments from the Commission.

Commissioner Williams asks if an address change will be required in each of the Islands proposed for annexation to which Ms. McDonald responds that all of the areas will have addresses that will need to be changed to match the City's grid for a more organized service delivery.

Commissioner Pearson moves approval of the item, second by Commissioner Mitzelfelt. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Curatalo, Nuaimi, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, McCallon (Commissioner Williams voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067C; AND (2) LAFCO 3067C – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 3) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067C – Reorganization to include City of San Bernardino Annexation No. 361 (Island 3) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews the map of the area on the overhead.

Ms. McDonald states that Island 3 is generally located north of Lynwood Drive and west, south, and east of parcel lines which comprise the City of San Bernardino boundaries. The area is 6+/- acres in size, is within the 150 acre threshold, and is 78% surrounded by existing City of San Bernardino boundaries. As LAFCO staff has indicated in the staff report, the area is substantially developed and the area does not contain prime agricultural land, the area is not included within an established County Redevelopment Area, the area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District. She says that the City of San Bernardino conducted an outreach program prior to submission of the application and this area has not been expanded or changed since its original application.

Ms. McDonald states that LAFCO staff is recommending approval of the annexation as an Island annexation, as outlined in the staff report.

Chairman Nuaimi opens the public hearing and asks if there are members of the public wishing to speak on this item. Hearing and seeing none, Chairman Nuaimi closes the public hearing.

Commissioner Mitzelfelt moves approval of the item, second by Commissioner Cox. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Curatalo, Nuaimi, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, McCallon (Commissioner Williams voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067D; AND (2) LAFCO 3067D – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 4) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067D – Reorganization to include City of San Bernardino Annexation No. 361 (Island 4) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews the map of the area on the overhead.

Ms. McDonald states that Island 4 has been modified by the Commission from the original proposal application. The area is 61+/- acres in size, within the 150 acre threshold, the area, as modified by the Commission, is 70% surrounded by existing City of San Bernardino boundaries. The area is developed on the basis that public services are available in the area. The area does not contain prime agricultural land; the area will benefit from the annexation and has benefited from services provided by the City of San Bernardino through contract with the San Bernardino County Fire Protection District. The City of San Bernardino adopted a General Plan in October 2006 which lists Area 4 as Residential Low which promotes low density, large lot, single family detached residential units with a minimum lot size of 10,800 square feet

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

and Residential Suburban which promotes single family detached units with a minimum lot size of 7,200 square feet and a maximum density of 4.5 dwelling units per acre. She says that the City of San Bernardino conducted an outreach program prior to submission of the application and the area is not included within an established County Redevelopment Area; however, the territory is part of the Inland Valley Development Authority, a joint powers redevelopment agency created for the former Norton Air Force Base transition. She says that the Commission's Environmental Consultant, Tom Dodson and Associates has reviewed the proposal and has indicated that it is his recommendation that the area is statutorily exempt from CEQA based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. She says that LAFCO staff is recommending that the Commission make the determinations as outlined in the staff report and approve the annexation of LAFCO 3067D.

Chairman Nuaimi opens the public hearing and asks if there are members of the public wishing to speak on this item.

Matthew Jackson states that he has received good service from the San Bernardino County Sheriff's Department; he is already served by the City Fire Department and is surrounded on three sides by the City of San Bernardino. He says that he has witnessed improvements in the City jurisdiction that he has not seen within the County and believes that it will benefit the area to be annexed into the City of San Bernardino and would like to see the City better enforce the municipal codes regarding commercial vehicle parking in residential areas and supports the parking of recreational vehicles on one's own property. Mr. Jackson states that he has concerns regarding the changing of addresses but overall is in support of the annexation of the area.

Philip Breault, Owner, Cal Disposal, states that his company is the current refuse provider for Areas 4 & 5 and has serviced these areas for over 50 years. He states that if the annexation is approved in these areas it will have a major impact on his business, his revenue and will also have an impact on his employees. He says that he provided a letter to the Commission stating his opposition to the annexation, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. He questions why the Commission split the islands and what the Commission's legal authority to do so is. He says that the area should not have been split and should have been taken to the residents for a vote as to whether they wished to be annexed to the City.

Scott Fruchter states that he can logically see the need for annexation for better municipal service delivery, however he is split on the issue since change is difficult. He says he has some concerns regarding the policing of the area since the City has stated in area newspapers that they are not increasing the amount of police officers for the Department, he asks if the City has any plans to increase the number of officers in order to police the newly annexed areas. He asks if there will be a change in property tax when a property is sold. He asks how the residents will know if they are affected by an address change; his area already has 4 digit addresses. He states that he is against the imposition of the utility tax even with a vote and says that Cal Disposal has done a great job servicing the area.

Christopher Fleming states that he is concerned with the dividing of the area in order to annex into the City of San Bernardino. He says that he has had Cal Disposal for his refuse service and that they provide good service. He states that he is concerned with the changing of land use designations and that the areas that are being annexed have large service requirements such as fire protection, police protection, and ambulance and paramedic services. He is concerned that the newly annexed area will not receive the same level of service as it currently receives and feels that the area should be kept as one and taken to the voters for their vote.

Chairman Nuaimi closes the public hearing.

Commission Mitzelfelt asks LAFCO staff why the area was taken in two sections for annexation instead of one.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Executive Officer Kathleen Rollings-McDonald states that the area was divided into two areas in order to meet the threshold of an island annexation. The area could have been initiated for annexation by the City and 23 years ago all of the islands were put forward to the people for annexation into the City of San Bernardino as a single reorganization and it was defeated at election. Ms. McDonald states that the Commission modified the area of consideration choosing Del Rosa Avenue/Drive as the division. Ms. McDonald reviews on the overhead the commercial areas that have been included within the City of San Bernardino and states that the annexations along Highland Avenue have excluded the areas which presented opposition. Ms. McDonald states that the Commission is utilizing the mechanisms available in LAFCO Law to address the Islands to provide for a more efficient governmental service. The Commission policy determinations point toward the use of center lines of existing streets as boundary limits.

Chairman Nuaimi states that there is nothing in the State Law that says that Islands cannot be adjacent to one another; the definition is "substantially surrounded" which the State Law does not define and left up to the LAFCO Commissions to define what is surrounded. LAFCO by policy determined that the definition is 52% of linear length.

Ms. McDonald states that the amendment to Government Code Section 56375.3 that took effect in 2004 specifically excluded the restriction for annexation of island areas that were a part of a larger unincorporated area. Prior to that, there had been restrictions regarding the use of the island annexation procedures to address the islands that were adjacent to one another. She states that the City of San Bernardino did not modify the proposal area; the Commission modified the proposal area to address the whole of the area to make a more comprehensive boundary.

Chairman Nuaimi addresses the questions and comments regarding the increase of taxes. He says that the sale of personal property prompts the increase in ad valorem tax regardless of whether one lives in the city or the county; that 1% is based on what the sales price of the house is. He says that as a result of the annexation, residents will be able to vote on tax measures and language on tax increases and with the number of landowners and registered voters being annexed, there are enough votes that if a tax measure is placed on the ballot, they can affect the outcome.

He says that cities have franchises for services like trash, in order to ensure that residents have stable service and pricing and that is why refuse service has a 5 year sunset. He says that there will not be a decrease in fire, police, paramedic and ambulance service, the same emergency personnel are responding to the area, the service will remain the same if not improve. He says that one of the benefits of the annexation will be that tax revenues generated will remain in the City for local improvements as opposed to going to the County.

Ms. McDonald states that the City of San Bernardino provides solid waste service as a City Department and is not a franchise in the same manner as other cities and is transitioning from an outside franchise to a city department. She adds that the general tax, the 1% ad valorem tax is the same for everyone and will only change if the property is sold or an improvement is built that the County Assessor determines is sufficient to change the assessed valuation. She says what many individuals are unaware of is that a share of the monies go to the County, 52% goes to schools, portions go to County Flood Control, San Bernardino Valley Municipal Water District, San Bernardino Valley Water Conservation District, and a list of agencies that receive a portion of the general levy that are not listed on the tax bill. In this case, the transfer of property tax to the City of San Bernardino that will occur through the annexation is roughly 17% of that value.

Commissioner Curatalo states that he is in support of LAFCO staff's recommendations and is in support because he knows the agenda of the LAFCO Commission is to truly provide sensible services and render the best decisions possible for the people of San Bernardino County. The issue of defining islands has been addressed in the past and the Commission has been charged with making decision and at time the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

decisions the Commission makes are difficult. However Commissioner Curatalo notes the Commission labors with the issue of island annexation each time island annexations are presented to it due to the fact that island annexations are difficult for the residents that do not want change and do not want to be annexed into a City. He says that the fault lies with the state legislature and he would like to try to find a way to ease the process and address the method as the controversy will occur each time island annexation area presented to the Commission.

Chairman Nuaimi states that the State Legislature originally had a 300 acre Island definition, then changed to 75 then 50 then decided on 150 acres. He continues that the legislature gave LAFCO a tool and left the definition of the tool fairly loose so that each LAFCO could refine the definition according to local circumstance. He states that the City of San Bernardino presented a different proposal and the LAFCO Commission expanded the proposal because the Commission felt that the City was not taking the Island with the tools that LAFCO provided. The area had been piecemealed over the decades and the proposal did not make sense if you look at the layout of the existing regional maps.

Commissioner Cox moves approval of the item, second by Commissioner Curatalo. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Cox, Curatalo, Nuaimi, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, McCallon (Commissioner Williams voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067E; AND (2) LAFCO 3067E – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 5) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

(It is noted that Commissioner Cox leaves the dais at 10:39.)

LAFCO conducts a public hearing to consider 3067E – Reorganization to include City of San Bernardino Annexation No. 361 (Island 5) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald states that Area 5 is generally located north of Pacific Street and east of Del Rosa Drive/Avenue. The area is comprised of 130+/- acres and is surrounded on three sides by city boundary -- on the north and east side by the City of San Bernardino and on the south by the City of Highland.

Ms. McDonald reviews the map of the area on the overhead.

Ms. McDonald states that the City of San Bernardino initiated a small area for annexation and the Commission modified and expanded the proposal to address the territory that was located within and divided between the City of San Bernardino and the City of Highland. She says the area is 85% surrounded as defined by the Commissions policies, the area is totally developed, the area does not contain prime agricultural land as defined by LAFCO statutes, it has benefited by the services of the City and will continue to benefit from those services, the City has conducted an outreach program for the original area, the expanded area has received outreach from the Commission via letter to individual landowners and registered voters. She states that this area was one of the islands that received the wrong notice originally and was sent a second notice clearly identifying the correct island of consideration.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Ms. McDonald states that the area is not included within an established County Redevelopment Area; however, it is a part of the Inland Valley Development Authority, a joint-powers redevelopment agency created for the former Norton Air Force Base transition. She states that LAFCO staff is recommending that the Commission approve the item as an island annexation.

(It is noted that Commissioner Mitzelfelt leaves the dais at 10:42 a.m.)

Commissioner Bagley asks LAFCO staff if the residents in this area will also be subject to the update of address by the City of San Bernardino, to which Ms. McDonald responds that the residents in Area 5 will also be subject to new addresses if the current address does not match the City's grid.

Chairman Nuaimi opens the public hearing.

Susan Hulse states that she received 8 notices from LAFCO staff of the annexation 2 weeks prior to the hearing. She states that she has been a property owner in Area 5 for 30 years. She says that 23 years ago the annexation request came before the landowners and they were given an opportunity to vote for or against the annexation to the City of San Bernardino; the annexation was voted against at that time. She says that she does not want to be annexed into the City of San Bernardino and was confused by the notice. She states that she has read in the local paper that the annexation is a result of the City's request to annex the Arrowhead Springs Area. She says that she has talked to representatives from the City of San Bernardino & LAFCO to obtain clarification of the issues and that she was unable to access the staff report on the LAFCO website. She is currently receiving adequate municipal services from the county and is satisfied with the quality of service she is receiving. She says that she feels that she should be allowed to vote on this issue and was unaware that the proposal had been in circulation since 2006 and did not receive notice in 2006 and that her property was not part of the original proposal, but was part of the expansion group that the Commission determined. She was not aware of any outreach by the City and had not read any information regarding the annexation in the local paper. She states that she has a concern regarding the address change and that she had not read any information in that regard. She states that she does not want to be part of the City of San Bernardino and asks the Commission to give her and the landowners an opportunity to vote on this issue.

Gary Lupo says that he is a property owner in Area 5 and has been for 24 years. He states that this area is adjacent to the City of Highland. He says that the registered voters should be given the opportunity to vote on whether they will be part of the City of Highland or the City of San Bernardino. He says that if the area is already receiving municipal service he does not see why it should change and also has a concern regarding the changing of the numbering of the addresses. He says that he has been pleased with the service from Cal Disposal. He has a concern with notices being published in the local newspaper as the number of readership has declined in recent years with the increase of usage of the internet; legal notices are not published on the internet as far as he knows, and that he was not aware of any outreach by the City on this issue. He states that he has concerns with other taxes that may result from the annexation such as business taxes and also with the system of notice delivery that the City of San Bernardino's code enforcement uses. He is against becoming a part of the City of San Bernardino.

Christopher Fleming states that he was not notified in 2006 of the proposal to annex by the City of San Bernardino; he received 2 notices from LAFCO staff in 2009. He states that as a citizen he would like to see that LAFCO Commission identify themselves and also state what agency they represent or are employed by so that conflicts of interest can be determined. He reiterates the comments that he has made previously and adds that he would like to understand the purpose of the LAFCO Commission and also questions the description used to identify the land being annexed.

Chairman Nuaimi closes the public hearing.

Chairman Nuaimi clarifies the composition of the Commission state that it is made up of City, County,

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Special Districts and General Public Representatives. He states that he is one of the city representatives, the current Mayor of the City of Fontana; he states that Diane Williams is a city representative from the City of Rancho Cucamonga and is a Council Member there. He states that they are elected to represent the City interests in issues related to LAFCO by a City Selection Committee made up of all the Cities in San Bernardino County. The Special Districts elect their representatives to the Commission; the County designates which of the County Supervisors will serve on the Commission.

He says that the Commission defines the Sphere of Influence for all communities and municipalities; the City of San Bernardino has its Sphere of Influence and the City of Highland has its Sphere of Influence. The Islands currently before the Commission are in the Sphere of Influence of the City of San Bernardino and that is why those Islands are being considered for annexation to the City of San Bernardino. He says that these areas have been in the Sphere of Influence of the City of San Bernardino for more than 23 years, it is not a new designation.

He says that the proposal to annex the islands to the City of San Bernardino is related to the annexation of Arrowhead Springs. He states that what has happened historically is that cities have come forward and annexed the areas that generate revenue and they have left the island behind due to the fact that they don't produce a revenue positive stream and are not profitable to annex. The Commission adopted a policy five years ago that mandates that cities take both the prime areas and the less than prime island areas as part of an annexation, as determined by the Sphere of Influence. The Commission determined the Sphere of Influence for each city and identified the island for each city then informed each city that prior to consideration of annexations, each city would have to address their islands. The City of San Bernardino addressed the Commission's mandate by adopting the resolution to show a commitment to the annexing of their islands.

Chairman Nuaimi states that the issue of public outreach is not a Legal Requirement but rather a commitment to the community that the Commission placed on each city in an effort to keep communities informed of the activities occurring in each city and to keep communities informed of the outcomes of changes resulting in annexations. He says that the Legal Requirement is to post a public notification in the legal notices section of a newspaper of general circulation. He states that in response to the concern regarding emergency responses to these areas, currently, the area is serviced by different entities and it is confusing for the responders as to who is the responsible agency, what jurisdiction is affected. After annexation this will not be an issue as the entire area will be the responsibility of the City.

Ms. McDonald states that in 1977 the State Legislature had a tool that lasted until 1987 for island annexations and was under what was known as the Municipal Organization Act, which was city annexation law. Then in 1998 Legislation was re-introduced to address remaining islands. At that time, discussion was held to determine how much acreage would define an island. The Legislature determined that 75 acres would be the definition of an island and it also included the provision that stated that area could not be a part of a larger island area or unincorporated area that exceeded 100 acres. In 2004 the State Legislature increased the island size to 150 acres and removed the prohibition that addressed portions of larger areas. Chairman Nuaimi states that Clark Alsop, Legal Counsel for the Commission, has reviewed and advised on all of the items before the Commission, and the Commission has reviewed all the items to ensure that the actions are effective policy and legally correct, however unpopular the decisions and actions may be.

Commissioner Curatalo moves approval of the item, second by Commissioner Smith. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Curatalo, Nuaimi, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane, Cox (Commissioner Smith voting in her stead), McCallon (Commissioner Williams voting in his stead), Mitzelfelt.

Sue Hulse asks when the annexation becomes effective and where the information is available for her

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

review, to which Ms. McDonald responds that the reconsideration period is 30 days and the change will not be effective for at least 31 to 32 days from the hearing date. The City will be contacting the citizens regarding the transition of service and the process will not start until the end of the year or the beginning of the year.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3067F; AND (2) LAFCO 3067F – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLAND 6) AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND ITS SERVICE ZONE PM-2 (PARAMEDICS), COUNTY SERVICE AREA 70, AND COUNTY SERVICE AREA SL-1 (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider 3067F – Reorganization to include City of San Bernardino Annexation No. 361 (Island 6) and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and its Service Zone PM-2 (Paramedics), County Service Area 70, and County Service Area SL-1. Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald reviews the map of the area on the overhead.

She states that Area 6 is generally located on the north side of Pacific Street in the City of San Bernardino's eastern sphere of influence. The area is generally bordered by Pacific Street on the south, Conejo Drive, the existing City boundary, on the west, parcel boundaries on the north and the Flood Control Channel on the east. The area is 2+/- acres in size and is totally developed, is 79% surrounded by the City of San Bernardino, has no prime agricultural land and has benefited from services provided by the City through contract with the San Bernardino County Fire Protection District. This island was not altered by Commission action and is being presented as originally submitted by the City of San Bernardino and the City has conducted outreach to the area. The area is not part of a County Redevelopment Agency but is a part of the Inland Valley Development Authority. She says that the City's land use designations for Area 6 is Residential Urban and allows for attached and detached single family residential units which includes duplexes and mobile homes and small lot subdivisions. She says that the Commission's Environmental Consultant, Tom Dodson and Associates has reviewed the proposal and has indicated that it is his recommendation that the area is statutorily exempt from CEQA based on the fact that the Commission has no discretion in its review of this proposal and must approve the project. She says that LAFCO staff is recommending that the Commission make the determinations as outlined in the staff report and approve the annexation of LAFCO 3067F pursuant to Government Code Section 56375.3.

Chairman Nuaimi opens the public hearing and asks if there are members of the public wishing to speak on this item. Hearing and seeing none, Chairman Nuaimi closes the public hearing.

Commissioner Bagley states that the Commission did not create the policies of State Legislature but it is the Commissions' responsibility to enforce them. He suggests that perhaps the Commission could have an internal discussion regarding the notification process for future proposals and possibly find a way to better utilize the internet for public notices. Commissioner Curatalo states that he would support discussion to review the notification process for future proposals. Ms. McDonald states that the Commission is required, by law, to provide individual notification to landowners and registered voters, which LAFCO staff currently provides and the Commission is also required to post the notice on the internet, which LAFCO staff currently does on the LAFCO Web Site. The individual notices that are provided to the landowners and registered voters provides the LAFCO Web Site information and direction as to how to find the information related to that notice. LAFCO staff is currently providing the individual notification in conjunction with the legal advertising in the local newspapers of general circulation, in which LAFCO staff includes maps of

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

proposal areas. She says that she is aware of the concerns brought forth by the citizens regarding the provision of notification; LAFCO staff currently meets all of the noticing requirements set forth by law.

Chairman Nuaimi states that the principle concern seems to be that the Commission altered the original proposal area after the City of San Bernardino had conducted its public outreach. He restates that a public outreach is not mandated by law and is provided by LAFCO Commission Policy. He says the LAFCO staff also notified landowners and registered voters in the surrounding areas, not just those who would be impacted. He asks Clark Alsop, Legal Counsel for the Commission if once a city makes a determination that an area is an island per LAFCO definition, it is the Commission's responsibility to support that determination and the Commission does not have the discretion to declare that it is not an island and does not have the ability to deny the processing of an island annexation if the mandatory requirements are met.

Clark Alsop, Legal Counsel for the Commission, states that the city is required to initiate the island annexation; the Commission has the authority to modify the proposal as long as the Commission does not modify the proposal in such a way that causes the proposal to defer from the Commission's definition of an island as listed in commission policy. With this particular island annexation, the Commission exercised its right to modify a proposal for island annexations and kept the proposals within the island definition. He says that modifications of this type are considered ministerial actions and it is also why, in this case, the Environmental Consultant has determined that these islands are not projects under CEQA Law, because the Commission does not have the discretion to deny the annexation, it must be approved, according to the State Statute.

Commissioner Williams states that she would like for the Commission to discuss Community Outreach and possibly require that the cities be more proactive in researching community concerns regarding island annexations and perhaps address these concerns prior to bringing a proposal before the Commission. She says that perhaps the discussion should be held to request that cities have a phone number and designated individuals available to address citizens concerns when processing island annexations.

Commissioner Pearson moves approval of the item, second by Commissioner Curatalo. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Curatalo, Nuaimi, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane, Cox (Commissioner Smith voting in her stead), McCallon (Commissioner Williams voting in his stead), Mitzelfelt.

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; 3) REVIEW OF ADDENDUM PREPARED BY LAFCO ENVIRONMENTAL CONSULTANT TO ADDRESS EXPANSION OF THE BOUNDARY TO INCLUDE CALTRANS RIGHT-OF-WAY AREA ALONG STATE ROUTE 18 AND TWO (2) ADDITIONAL PARCELS AS A CEQA LEAD AGENCY FOR LAFCO 3050; AND (4) LAFCO 3050 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 AND DETACHMENTS FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS VALLEY SERVICE ZONE, AND COUNTY SERVICE AREA 70 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) (CONTINUED FROM SEPTEMBER 16, 2009)

LAFCO conducts a public hearing to consider LAFCO 3050 – Reorganization To Include City Of San Bernardino Annexation No. 360 And Detachments From The San Bernardino County Fire Protection District And Its Valley Service Zone, And County Service Area 70 (Arrowhead Springs Specific Plan Area). Notice of the hearing was advertised as required by law through publication of a 1/8 page ad in the Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. Executive Officer Kathleen

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Executive Officer Kathleen Rollings-McDonald reviews the background of the proposal before the Commission stating that LAFCO 3050 is the Annexation of the Arrowhead Springs Specific Plans territory which includes the historic Arrowhead Springs Hotel to the City of San Bernardino. She states that the staff report prepared by LAFCO staff includes background information on this proposal. Ms. McDonald states that on March 23, 2006, the City of San Bernardino initiated two proposals, one to address the sphere of influence expansion and one to annex the territory of the Arrowhead Specific Plan. In October 2006, the Commission approved the sphere of influence changes and determined to expand the proposal to include two parcels that were not included in the original proposal. She says that during the discussion regarding this proposal former Commissioner Hansberger requested clarification of the relationship of Highway 18 and expanded the boundary to include the entirety of Highway 18 to resolve concerns and questions regarding emergency response along the Highway.

She states that the Commission informed the City of San Bernardino that if they wished to propose annexation of revenue generating development they must also address the islands within their boundaries. The Commission outlined at the April 2006 hearing, its direction to both LAFCO staff and the City of San Bernardino its directives that the City initiate annexation of the City's totally or substantially surrounded islands while considering the Arrowhead Springs development. In July 2006 the City of San Bernardino submitted an application for the annexation of six islands while outlining the issue of timing and phasing of the remaining island annexations by adopting Resolution No. 2006-348.

Ms. McDonald says that in October 2006 the Commission heard LAFCO 3050 and LAFCO staff presented to the Commission their concerns regarding the delivery of water, sewer and fire protection services to the development. The concerns identified were related to the method chosen for service provision for domestic, irrigation and recycled water delivery, wastewater treatment and disposal and wild land fire protection services. The water services were anticipated to be provided by an existing private mutual water company. That concern had been expressed to the City of San Bernardino throughout the environmental review of the Specific Plan Development. She says that the staff report outlines in detail the areas of concern and questions in regard to the service plan presented by the City of San Bernardino and the project proponent, Campus Crusade for Christ and its then partner, American Development Group. She says that at that hearing staff questions regarding fire protection were addressed by Fire Chief Michael Conrad, indicating that the City had put in place agreements for wildland fire protection; his response adequately addressed LAFCO staff's concerns.

She states that LAFCO still had a concern regarding water and sewer issues and recommended that LAFCO 3050 be continued to the November 2006 hearing to allow for reconciliation of the questions related to the provider/operator of the water and sewer service. What staff believed to be a fairly straightforward response to these questions by the City's municipal water department to provide for the operation and management of the water system to serve the 1350 homes, the renovation and expansion of the Arrowhead Springs Hotel, additional commercial and hotel facilities, a golf course, turned into a three year odyssey of continuances for LAFCO 3050.

She states that in August 2009 an "Agreement in Principle" for the provision of water and sewer service through the City was signed by the City of San Bernardino Municipal Water Department, Campus Crusade for Christ Inc. and the Arrowhead Springs Corporation. Also, LAFCO staff received a modified Plan for Service related to water and sewer service from the City of San Bernardino that shows that the City's Municipal Water Department will manage and operate the water and sewer facilities to serve the site.

She says the LAFCO staff and the Commission have always identified their support for the proposal and believes that the City of San Bernardino is the logical and most effective service provider for the area. However, the questions regarding the service delivery for future citizens in the area had remained a

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

concern for LAFCO staff. These concerns are tied into the fact that the LAFCO Commission is not a land use authority, the Commission has no direct responsibility for that but is responsible for ensuring that the services that are delivered are sustainable and adequate to meet the needs of the land use.

Ms. McDonald reviews the topographical area on the overhead.

Ms. McDonald says that LAFCO staff discovered an issue regarding a 900 foot length of Waterman Canyon Road that is outside the proposed City boundaries. She states that in November 2009, LAFCO staff met with City and County Public Works staff to address this new concern regarding the maintenance of the roadway within that area. During that meeting it was determined that the best alternative, based on parcel configurations in the area, would be to require an out-of-agency agreement between the City and the County that would identify that the City would provide for ongoing maintenance of the roadway. A draft copy of the proposed out-of-agency agreement has been received by LAFCO staff and it is LAFCO staff's recommendation that a condition of approval that requires the submission of the agreement prior to the issuance of the Certificate of Completion be required.

Ms. McDonald states that the Commission's Environmental Consultant Tom Dodson of Tom Dodson and Associates has reviewed the environmental documents and has indicated that they are adequate for the Commission's use for LAFCO 3050 as a responsible agency. She says that a copy of the environmental documents was provided in 2006 and again provided in 2009 for the Commission's review.

Tom Dodson, of Tom Dodson and Associates, states that the Commission is acting as the Lead Agency for this proposal since the Commission will be adopting an addendum that will address some additional acreage that was added to the proposal at the Commission's request. The Commission is required to review the environmental documents and take into consideration the Findings of Fact and Statement of Overriding Considerations. He states that if the Commission chooses to approve the annexation, the Commission also has to make specific findings and adopt the Statement of Overriding Considerations. He says that those documents have been provided for the Commission and represent the Commission's incorporation of the data that is in the Environmental Impact Report. The Commission also has to make a conclusion that the benefits of the annexation to the City outweigh significant adverse impact. He says that he has indicated that the addendum adds approximately 18 acres that was not included in the original proposal or the pre-zoning, 16 of which are within the Highway 18 right of way with the remaining 2 being small parcels. Mr. Dodson states that the addition of these parcels will not change use and that the addendum is the appropriate action for the Commission to take since it is a modification to the original proposal but will not modify the environmental impact. He says that the staff report outlines the actions that his analysis has recommended.

Ms. McDonald reviews on the overhead the issues related to LAFCO 3050 as identified in October 2006. She states that the issue regarding the Plan for Service choice of a private and mutual water company for providing water, domestic and irrigation and wastewater service has been resolved by the "agreement in principle" that the City's Municipal Water Department will be the entity to manage and operate these systems and that the City Municipal Water Department has provided a new Plan for Service. Ms. McDonald states that although the process to resolve the concerns that the Commission has had with regards to this proposal has been at times frustrating for all the entities involved, the driving force has always been the need to address the most appropriate, effective and efficient mechanism for providing service to this proposal area, and for the development for the Specific Plan, which is a landmark of the City of San Bernardino. She says that the Commission must take into consideration the future residents and visitors to the area as to who is the best equipped to provide the needed services.

She states that the Commission's concerns have been addressed and that LAFCO staff is recommending that the Commission approve the proposal by taking the actions listed in the staff report, which include the environmental considerations; the Certification of the Final EIR, the determination that the Addendum prepared by the Commission's Environmental Consultant are adequate, the determination that the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Mitigation Measures are the responsibility of the City and others and not the Commission, the finding that the addition of acreage that includes the Highway 18 right-of-way does not modify conclusions in the environmental documentation, the adoption of the Candidate Findings of Fact and Statement of Overriding Considerations, and the direction of the Executive Officer to file the Notice of Determination within five days. In addition, that the Commission modify LAFCO 3050 through expansion to include the highway 18 right of way and the two parcels identified, re-title the proposal to include the detachments of the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70. Also, that the Commission approve LAFCO 3050 as modified with the conditions as listed which are the standard terms and conditions that include the hold harmless clause for potential litigation costs, fees, charges; a condition to address service mechanism to accommodate ongoing maintenance of Waterman Canyon Road; adopt LAFCO Resolution #2942 setting forth the Commission's terms, conditions, findings, and determinations for approval.

Chairman Nuaimi opens the Public Hearing

Ms. McDonald states that at each Commissioner's place is a copy of an email that outlines concerns regarding the maintenance of Waterman Canyon Road.

Meryle Moroney states that she has concerns over how the City maintains its portion of Waterman Canyon Road. She states that she is satisfied with her property being in the County and feels that the City does not maintain their portion of the road appropriately. She has a concern with the safety of the bridge on the road, the graffiti, and the litter. She states that she did not receive notification regarding a September 16 meeting. She does not want to be part of the City and would like the Commission to reconsider on behalf of the citizens living in that area.

Roy Ferguson states that he has concerns that the annexation will increase traffic on Waterman Canyon Road. He also has a concern with the possible backing up of sewerage systems that would have to be installed for future developments. He adds that he is not opposed to a golf course on the Arrowhead Springs area, but does want to voice his concerns over the access and capability of roads for evacuations.

Warner Hodgen gives a history of his involvement in the City of San Bernardino and the Arrowhead Springs area. He states that he is in support of the annexation and submits copies of his documentation of the area for inclusion to the public record.

Christopher Fleming states that the tax assessor value information is dated for 2006, as shown in the staff report and would like to know what the current value is. He asks if the annexation includes an access or service road from the Arrowhead Springs Property that would exit on 40th street. He asks if the annexation also trying to purchase water right under the Arrowhead Springs Hotel and ask for clarification on the water issues. He also asks if the Arrowhead Springs Hotel is being annexed in order to reopen the Hotel.

Rebecca Kyle submits photos of a bridge on Waterman Canyon Road to the Commission to be added to the public record and states that she has not been satisfied with the level of maintenance that the City has provided for that area. She submits photos of a bridge that is maintained by the County and states that she has been satisfied with the level of maintenance that the County provides.

Meryle Moroney states that the proposal talks about water and would like to know what watersheds will be used for releasing of the water to the stream beds and if the approval of the annexation will require that residents purchase their water from private water companies. She states that she has her own well and does not need to purchase water. She is against the building of another golf course in that area and would like to keep the area in its current natural state.

Chairman Nuaimi closes the public hearing. He asks LAFCO staff to address the questions regarding land use.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Executive Officer Kathleen Rollings-McDonald states that the questions brought before the Commission are related to land use and future developments. She shows on the overhead a view of the Specific Plan and states that development of the area will require primary and secondary road access for public safety purposes and the City of San Bernardino has required those of any potential development project. She states that the map shows the development and the open space areas and that much of the project will be designated for open space purposes and that the hotel and residential units are identified on the map. She points out on the overhead the road that will come out onto 40th street. As a part of the project, the City would be required to provide primary and secondary road access due to the fire hazard in the area.

She says that with regards to the issues regarding landowners being included in the annexation, the residents are not included in the annexation proposal as they are outside of the existing boundary and the Waterman Canyon area under discussion has residences along it but they are not being included in the annexation to the City of San Bernardino.

She says that with regard to the updating of information received from the County Assessors office, since there has been no change in the land ownership of the site, the 2006 valuation would remain. Ms. McDonald notes that since Campus Crusade is a religious organization, their taxes are reduced for religious exemption, so there is a much smaller tax obligation presently.

She says that with regards to the questions of water rights purchasing, in any development the proponent is required to provide sufficient water to sustain the development. The Plan for Service that was updated and adopted by Municipal Water Department and the "Agreement in Principle" has defined that the developer of the site will provide sufficient water for the development from their resources and that they will work with the City Municipal Water Department to do so. This is not a round-about way to purchase water; they are required to provide a sustainable level of water for their project. She states that with regards to the acquisition of the Hotel, the Hotel is privately owned and that it is intended to be sold to another private ownership and is not envisioned to be operated by the City of San Bernardino, however the City will have responsibility to deliver services in that area.

She states that residents will not be forced to purchase water from private companies if they already have their own water wells. She adds that with regards to the bridges in the area, the maintenance, development and improvement of those bridges will be a part of the development process, however, no further information has been provide to LAFCO staff in that regard. She states that the County Public Works Department in reviewing the Waterman Canyon Road issue did not provide any concerns or questions regarding the bridges in that area to LAFCO staff.

Commissioner Williams requests clarification that no residents are included in the annexation of LAFCO 3050, to which Ms. McDonald states that annexation Area 1 is owned by the Campus Crusade for Christ Inc., and that it includes the Arrowhead Hotel and grounds and a parcel that is privately owned and that Area 2 is owned by the Puritas Water Company and that area also includes the section of Highway 18 previously discussed. She says that LAFCO staff provided individual notices to the landowners and registers voters in the surrounding area as well as to the landowners within the reorganization area.

Commissioner Curatalo asks for clarification regarding a comment made on the subject of homes in area 2 that would be affected by the golf course development, to which Ms. McDonald states that there are no homes in Area 2; she says that the homes are adjacent to Area 2 and are not included in the annexation they will be retained in the County.

Chairman Nuaimi states that the comments and concerns brought before the Commission by the citizens are more suited to the implementation of the Specific Plan and future development activities and not the annexation proceeding.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Commissioner Williams states that if the citizens have issues with the Land Use designations for future, they should take them to the City of San Bernardino. Chairman Nuaimi states that the process of Land Use Designations has already occurred since the City has a Specific Plan and General Plan Update that had adequate environmental analysis done, as has been reviewed by LAFCO staff.

Pat Morris, Mayor, City of San Bernardino states that the City of San Bernardino has been in the annexation process for this proposal for awhile. The City has worked with Campus Crusade for Christ, the Municipal Water Department and LAFCO staff to resolve the issues regarding water. He says that he urges the Commission to approve the proposal for annexation into the City of San Bernardino.

Chairman Nuaimi states that he takes exception to the comments made that the Commission has treated the proposal in a somewhat convoluted manner. He also says that the Commission's questioning of the water rights was not the blame for the process taking more than a year and a half as was commented by the public. The Commission's review raised valid concerns with water provision, had an extensive dialog at the time, and included the issue of Islands because they felt it was good policy. Clark Alsop states that the recommendations are listed on pages 1 and 2 of the staff report and that the Executive Officer has reviewed the recommendations in her presentation.

Chairman Nuaimi moves approval of the item as outlined in staff's recommendation, second by Commissioner Williams. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Curatalo, Nuaimi, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane, Cox (Commissioner Smith voting in her stead), McCallon (Commissioner Williams voting in his stead), Mitzelfelt.

PENDING LEGISLATION REPORT

Executive Officer Kathleen Rollings-McDonald states that LAFCO staff has presented the Commission with the synopsis presented by Peter Detwiler at the CALAFCO Annual Conference and has no significant items to report.

EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Kathleen Rollings-McDonald states that she and several of the Commissioners attended the CALAFCO Annual Conference and that the nominee for the CALAFCO Executive Board from the Commission, Mr. Paul Biane, lost by one vote. The issue of regionalism was presented to the Board of Directors and members of that Board spoke against the regionalism effort, even though they had unanimously supported the effort in August. The division in the CALAFCO Association is more pronounced because of the 15 sitting members of the Board of Directors 11 of them represent the Northern California area. She states that she feels that regionalism will not move forward with the current CALAFCO Board and asks how the Commission wishes to proceed and whether or not the Commission wishes to rescind the hosting of the 2012 CALAFCO Annual Conference.

Chairman Nuaimi asks that the item be put on an agenda at a future meeting so that the Commission can take a formal action.

Ms. McDonald states that she participated in the Utility Managers Meeting in Indian Wells to gather information regarding recruitment. She says that she was presented with concerns regarding the evaluation process of the Executive Officer and how the Commission was planning on pursuing the recruitment of the executive officer position. She says that the concerns that were expressed to her were that the evaluation process is not comprehensive, does not bring a discussion of the goals that the Commission has for its operations for the next year. She asks the Commission to give her direction regarding the scheduling of a closed session for the month of December to discuss the evaluation and process of recruitment of the executive officer.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

Commission Curatalo states that he was also in attendance at the Utility Mangers Meeting and that the discussion regarding the evaluation of the Executive Officer was a result of one of the session regarding evaluation processes that are available for CEOs and for Boards to conduct comprehensive evaluations. He would like the Commission to engage in conversation and discussion on evaluation process that are available to them. Reviewing the process will allow the Commission to tailor the review development so that it is geared for a higher level employee or CEO and could possibly include direction in interpreting the vision of the board for activities or goals for the coming the year and expectations of performance at the EO level.

Ms. McDonald states that this is a good time to have the discussion since the Commission will be going through the transition of hiring and developing a new relationship with a new Executive Officer next year and a change in the evaluation system could be helpful so that the new Executive Officer can understand what the process is. She states that she recommends that the Commission have the discussion so that the item can move forward.

Chairman Nuaimi asks what the current time frame is with regards to recruitment of the executive officer position, to which Ms. McDonald responds that her retirement date is August 27, 2010, but that the recruitment process is intended to begin in March 2010.

Chairman Nuaimi states that a Closed Session to discuss this issue with the Commission would be appropriate. Ms. McDonald states that staff has no expectation of attending the CALAFCO staff workshop in Santa Rosa in April, so the monies that have been budgeted for transportation and lodging for that meeting could be used to pay for a hearing in December.

Commissioner Pearson states that he attended the CALAFCO Conference and he also encouraged the Commissioners to read various articles published in the "Sphere" magazine so that they can understand the culture of the CALAFCO process. He states his support in evaluating the assessment process of the Executive Officer and he also supports a session to discuss the recruitment process.

Ms. McDonald states that on December 11, 2009, she will be attending a meeting of the Southern California LAFCOs and that the meeting is open to executive officers and Commissioners and asks that any Commissioner wishing to attend the meeting contact her so that arrangements can be made.

Chairman Nuaimi asks if the alternate members of the Commission are allowed to attend the closed session. Clark Alsop, Legal Counsel, states that attendance to the closed session is a matter of policy and that the LAFCO for San Bernardino County does allow the alternate Commission members to participate in the closed session.

COMMISSIONER COMMENTS

Chairman Nuaimi calls for comments from the Commission. There are none.

COMMENTS FROM THE PUBLIC

Chairman Nuaimi calls for comments from the public.

Christopher Fleming states that area map for the Arrowhead Springs annexation does not show an access road. Chairman Nuaimi states that the Specific Plan does show the access road on that map. Christopher Fleming states that he is concerned as a citizen as to the technical language that the Commission uses in defining their proposals & actions.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 18, 2009**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 12:29 P.M.**

ATTEST:

**REBECCA LOWERY,
Deputy Clerk to the Commission**

LOCAL AGENCY FORMATION COMMISSION

MARK NUAIMI, Chairman