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 and Residential Suburban which promotes single family detached units with a minimum lot size of 7,200 square fee and a maximum density o 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 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.

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 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).