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.

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 come 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, 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 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.