

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

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 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.

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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.