

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 19, 2010**

REGULAR MEETING

9:00 A.M.

MAY 19, 2010

PRESENT:

COMMISSIONERS:	Jim Bagley	Neil Derry, Alternate
	Paul Biane	Larry McCallon
	Robert Colven, Alternate	Brad Mitzelfelt, Chairman
	Kimberly Cox	Robert Smith, Alternate
	James V. Curatalo, Vice-Chairman	Diane Williams, Alternate

STAFF:

- Kathleen Rollings-McDonald, Executive Officer**
- Clark Alsop, Legal Counsel**
- Samuel Martinez, Senior LAFCO Analyst**
- Michael Tuerpe, LAFCO Analyst**
- Anna Raef, Recording Secretary**
- Angela Schell, Deputy Clerk to the Commission**

ABSENT:

COMMISSIONERS: **Mark Nuaimi**

9:00 A.M.– CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – Conference Room adjacent to the City of San Bernardino City Council Chambers

Conference with Legal Counsel Existing Litigation (Government Code Section 54956.9(a)): Susan Hulse v. All Persons Interested in Matter of LAFCO 3067A-F et al, Superior Court Case CIVDS 1002077; and,

Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation (Government Code Section 54956.9(c).

RECONVENE TO REGULAR SESSION – CALL TO ORDER – 10:28 A.M.

Vice-Chairman Mitzelfelt calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Vice-Chairman Mitzelfelt 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.

ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

Vice-Chairman Mitzelfelt asks LAFCO Counsel Clark Alsop to report on action taken in closed session. Mr. Alsop states that no reportable action was taken in closed session relating to the first matter, conference with legal counsel on existing litigation. On the second matter, conference with legal counsel on anticipated litigation, Mr. Alsop reports that he has a conflict; therefore, Special

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Counsel Mark Austin of Rutan and Tucker will report. Mr. Austin states that the Commission has authorized his office to initiate litigation against the City of San Bernardino related to Condition No. 5 of Resolution No. 3073, as it relates to the City's obligation to indemnify the Commission for litigation arising out of the action.

SWEARING IN OF CITY (REGULAR AND ALTERNATE) AND SPECIAL DISTRICT MEMBERS (REGULAR AND ALTERNATE) OF THE COMMISSION

Recording Secretary Anna Raef administers the oath of office to Larry McCallon, City Member; Diane Williams, Alternate City Member; James Curatalo, Special Districts Member; and Robert Smith, Alternate Special Districts Member.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN – COMMISSIONER MITZELFELT ELECTED CHAIRMAN; COMMISSIONER CURATALO ELECTED VICE CHAIRMAN

Executive Officer Kathleen Rollings-McDonald presents the staff report for the election of the Chairman and Vice Chairman, a copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

Ms. McDonald states these are annually selected positions and Commission policy states that no commissioner may serve more than two consecutive terms as chairman or vice-chairman. She says that Chairman Nuaimi has completed his first full term and Vice-Chairman Mitzelfelt has completed his first full term. She opens the nominations for Chairman. Commissioner Williams moves to continue the terms of both Chairman Nuaimi and Vice Chairman Mitzelfelt. The motion dies for lack of a second. Ms. McDonald calls for further nominations. Commissioner Curatalo nominates Commissioner Mitzelfelt as Chairman, seconded by Commissioner Cox. Commissioner Mitzelfelt asks if Commissioner Nuaimi has indicated a desire to continue as chairman. Ms. McDonald states he has not indicated that he did not wish to continue in that position. Ms. McDonald calls for a voice vote on the nomination of Commissioner Mitzelfelt as Chairman and it is as follows: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

Chairman Mitzelfelt opens the nominations for Vice-Chairman. Commissioner Cox nominates Commissioner Curatalo as Vice-Chairman, seconded by Commissioner McCallon. Chairman Mitzelfelt calls for further nominations. There are none. Chairman Mitzelfelt closes the nominations and calls for a voice vote on the nomination of Commissioner Curatalo as Vice-Chairman and it is as follows: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

(It is noted that Commissioner Derry leaves at 10:35 a.m.)

CONDUCT INTERVIEWS OF PUBLIC MEMBER CANDIDATES AND SELECTION OF PUBLIC MEMBER AND ALTERNATE PUBLIC MEMBER, IF NECESSARY – JAMES BAGLEY SELECTED PUBLIC MEMBER AND ROBERT COLVEN SELECTED ALTERNATE PUBLIC MEMBER

(Commissioner Bagley leaves the dais and takes a place in the audience.)

Executive Officer Kathleen Rollings-McDonald states that the interview and selection of the Regular Public Member of the Commission was advertised for today. She says the Commission's

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policies and procedures have been followed in order to solicit interested persons for the position. She states that each of the applicants has been advised about providing a brief presentation of their qualifications and the Commission may then interview the applicants and make a selection. Ms. McDonald states that the successful candidate must receive a vote from each of the categories on the Commission, i.e., one vote from a Board of Supervisors member, one vote from a Special Districts member and one vote from a City member, and that the public member does not vote in this case.

Chairman Mitzelfelt calls upon the candidates in alphabetical order.

James Bagley addresses the Commission and states he has unique qualifications to bring to the position. He has been an elected City Council member, a Special Districts member and has been a Planning Commissioner for the County of San Bernardino, giving him County, Special District and City experience. He says he is a former Chairman of LAFCO and believes these unique qualifications would serve the position very well. He asks for the Commission's support and says that he has extensive background with LAFCO and believes his participation is part of the corporate memory of the agency. Chairman Mitzelfelt calls for questions from the Commission. There are none.

Robert Colven addresses the Commission and states that he seeks appointment as the Alternate Public Member. He is a retired California Highway Patrol officer, serving in the Coachella Valley. Upon retirement he purchased a home in Big Bear City and sought and won election to the Big Bear City Community Services District Board of Directors. He served in that capacity for 17 years and during that time served as chairman and vice-chairman of LAFCO. He says the work is enjoyable and challenging. He also pays tribute to the LAFCO staff. Chairman Mitzelfelt questions that Mr. Colven's letter indicates interest in the regular Public Member position, not the alternate position. Mr. Colven states he misspoke and does desire to apply for the regular Public Member position. Chairman Mitzelfelt calls for questions from the Commission. There are none.

Jim Harvey addresses the Commission and states that he believes he is the right choice for appointment as the Public Member to the Commission. He states he lived in Chicago for a number of years before moving to San Bernardino, and later to Johnson Valley. He believes he has an exceptional perspective from having lived in one of the largest cities in the U.S. and in one of the smallest communities. He says Congress enacted an energy policy in 2005, and he notes that over 1.5 million acres of the California desert conservation area are being considered for these large-scale renewable energy projects. He says a very large number of them are proposed for San Bernardino County. Because of this he formed the Alliance for Responsible Energy Policy to study energy policies and to provide input to lawmakers. He says he became nationally known for his knowledge of public land renewable energy project issues. He believes the Commission will soon face challenges to its charter of overseeing orderly growth that simultaneously protects valuable surrounding open spaces, which will be taxed under the current energy policy. He says his knowledge and research in this area could prove valuable to the Commission as the state moves aggressively toward these new renewable energy mandates. He adds that in 2008 his community asked him to be a delegate to the Homestead Valley Community Advisory Council. The Council advises on regional, state and federal matters of mutual interest to the four Homestead Valley communities of Landers, Flamingo Heights, Yucca Mesa and Johnson Valley. Mr. Harvey notes that he is current president of the council and under his leadership these four communities have not only been more cooperative between themselves, but also with surrounding communities. He believes that his ability to communicate well and study the issues would serve the Commission well. Finally, he mentions that he has demonstrated a high level of commitment to understanding open government laws, including the Brown Act and California Public Records Act, and in fact, has

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recently organized an open government workshop that was well attended. He says that Commissioner Derry attended that workshop and provided opening remarks. He concludes by saying that this Commission has a long history of effectively overseeing jurisdictional changes while protecting the County's valuable open spaces, and he believes he would be an asset to the Commission as it continues that legacy. Chairman Mitzelfelt calls for questions from the Commission. There are none.

Robert Norris addresses the Commission and states that he lives in Crestline. He states he has operated two businesses and a farm. He believes those experiences have given him valuable insight into the conflicting interests that exist in any community between the economic and social arenas. He says that he was a member of an advisory council to the County Council in a Maryland county. He says in his neighborhood a developer bought 1,000 acres of abandoned rock quarry and submitted a proposal to the County Council to develop strip malls and industrial complexes. He says the developer paved 1,000 acres without any consideration to where the water was going to go and he raised funds to sue the developer over the issue. He concludes by stating that his experiences would provide practical experience to the Commission. He states he is interested in the philosophy behind having a Public Member serve on the Commission. Chairman Mitzelfelt asks what his employment status is. Mr. Norris states he is retired. Chairman Mitzelfelt calls for questions from the Commission. There are none.

Dr. Victoria Seitz addresses the Commission and states that she is seeking the Public Member position. She first commends the Commission for its work relating to development in Fontana. She says the job of LAFCO is more important now than ever before as the County's cities are growing. She points out that to grow in the right direction is critical to the overall development of the County. The County is at an important juncture with movement east from Los Angeles by families and businesses taking advantage of lower living and business development costs. She says it is not simply a matter of annexation or detachment, but delivery of services that serves as a large revenue stream for cities. Further, she says a city's image and marketability drive decisions regarding these issues. She questions how the County will fare as cities work toward redevelopment, with decisions that might be impeded based upon the delivery of fire, police, and water services, as well as business development in its jurisdiction. She says that San Bernardino County is also blessed with lots of undeveloped land, which might appear as a gold mine to those in Los Angeles and Orange Counties where the price of land is much higher. She questions if annexation is the answer as unincorporated areas grow. She says she brings to the Commission vast business experience in marketing as her background includes 30 years experience in marketing, retailing, consulting, and academia, including experience at the city, regional, national and international levels where she has collaborated at all areas of government and business to solve problems. She adds that she has lived in San Bernardino County for 19 years and in the City of San Bernardino for nine years. She says that the City's positive redevelopment must continue as it is the County seat. She points out that there are areas where one side of the street belongs to the City and the other belongs to the County. She questions how such lines in the sand serve the residents and how it reflects on the City's image. She explains that the cost of delivery of services for the City and County varies and that it is imperative that residents are insured that delivery of services in a positive economic climate continue to grow, noting that politics as usual will not work with scarce monetary resources at hand. She says that in other cities across the country consolidation of services will transpire to benefit all residents. That is not the case here. She asks the Commission to consider her for the Public Member position as she comes with a wide range of experience and knowledge and is more than willing to contribute to serve in the best interests of the County. Chairman Mitzelfelt calls for questions from the Commission. There are none.

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Chairman Mitzelfelt reiterates that a yes vote from at least one member from each category, County, City, and Special Districts, is required to select the Public Member. Commissioner Curatalo asks if a selection can be made for both the regular Public Member and the alternate. Legal Counsel Clark Alsop clarifies that both can be selected, but the first step is to select the regular Public Member. If that selection leaves a vacancy for the alternate member, the alternate member can then be selected.

Commissioner Curatalo nominates Commissioner Bagley as the regular Public Member, seconded by Commissioner Cox. Commissioner Curatalo expresses his appreciation to every member of the public who stepped forward and offered to serve. The Commission has considered the experience and qualifications of everyone who applied, as well as the challenges this LAFCO will be facing in the near future. Chairman Mitzelfelt calls for further nominations. There are none. Chairman Mitzelfelt closes the nominations and calls for a voice vote on the nomination of Commissioner Bagley as regular Public Member, and it is as follows: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

Commissioner Mitzelfelt asks if the applicants for Public Member are willing to serve as Alternate Public Member. All applicants indicate that they are willing to serve as alternate.

Commissioner Curatalo nominates Robert Colven as the Alternate Public Member, seconded by Commissioner McCallon. Chairman Mitzelfelt calls for further nominations. There are none. Chairman Mitzelfelt closes the nominations and calls for a voice vote on the nomination of Robert Colven as Alternate Public Member, and it is as follows: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

SWEARING IN OF PUBLIC MEMBER OF THE COMMISSION AND ALTERNATE PUBLIC MEMBER

Recording Secretary Anna Raef administers the oath of office to James Bagley, Public Member and Robert Colven, Alternate Public Member.

Chairman Mitzelfelt thanks all who applied.

(Commissioners Bagley and Colven take their places at the dais.)

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

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

- ITEM 6 Approval of Minutes for Regular Meeting of April 21, 2010
- ITEM 7 Approval of Executive Officer's Expense Report
- ITEM 8 Ratify Payments as Reconciled for Month of April 2010 and Note Cash Receipts
- ITEM 9 Approval of LAFCO Fiscal Records Destruction Per Commission Policy

Ms. McDonald states that her expense report is at each Commissioner's place today.

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A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments and the staff report outlining the recommendation on the LAFCO fiscal records destruction per Commission policy, have been provided, and copies of each are on file in the LAFCO office and are made a part of the record by their reference here.

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

DISCUSSION ITEMS:

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR SCHEDULE OF FEES, DEPOSITS AND CHARGES REVISIONS; AND (2) REVIEW AND ADOPTION OF SCHEDULE OF FEES, DEPOSITS AND CHARGES FOR FISCAL YEAR 2010-11– APPROVE STAFF RECOMMENDATION

LAFCO conducts a continued public hearing to review and consider adoption of its Schedule of Fees, Deposits and Charges for Fiscal Year 2010-11, to be effective June 1, 2010. Notice of the original hearing on April 21, 2010 was advertised as required by law through publication in *The Sun*, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, Cities/Towns, Independent Special Districts, the County and those individuals and agencies requesting mailed notice.

LAFCO Analyst Michael Tuerpe 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 here. Mr. Tuerpe states that the proposed fee schedule was forwarded to the County, cities and independent special districts for their review and comment as required by law. During that period, no comments have been received from any agency. Mr. Tuerpe states that LAFCO staff recommends that the Commission take the recommended actions to adopt the Schedule of Fees, Deposits and Charges to be effective June 1, 2010.

Chairman Mitzelfelt calls for questions from the Commission. There are none.

Commissioner Cox moves approval of the staff recommendation, seconded by Commissioner McCallon. Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

REVIEW AND ADOPTION OF FINAL BUDGET FOR FISCAL YEAR 2010-11 – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing for the review and adoption of the Final Budget for Fiscal Year 2010-11. Notice of this hearing has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments, all Cities/Towns, Independent Special Districts and the County.

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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 here. Ms. McDonald reports that the proposed budget and apportionment schedule were forwarded to all Cities/Towns, Independent Special Districts and the County of San Bernardino for review and comment as required by law. She states that during that period no comments were received.

She states that the staff recommendation is to:

1. Adopt the Fiscal Year 2010-11 Final Budget with the apportionment of net LAFCO costs based upon the Auditor's information attached.
2. Adopt LAFCO Resolution No. 3094 rescinding Cost-of-Living Salary Adjustments approved in August 2008.
3. Direct the Executive Officer to submit to the County Auditor/Controller-Recorder the adopted Final Budget and request the apportionment of the Commission's net costs to the County, Cities/Towns and Independent Special Districts pursuant to the provisions of Government Code Section 56381 as provided on the attachment to the Budget.

Commissioner Biane moves approval of the staff recommendation, seconded by Commissioner McCallon. Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

Commissioner Bagley commends the staff for its consideration of the rescission of the cost of living increases and acknowledges that these are tough budgetary times. Ms. McDonald also expresses her appreciation to the staff for working hard to meet the necessities of the budget. Chairman Mitzelfelt also commends the staff.

CONSIDERATION OF LAFCO SC#352 – REQUEST FOR EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR WATER SERVICE FROM CITY OF SAN BERNARDINO MUNICIPAL WATER DEPARTMENT WITHIN THE PRIVATE COMPANIES ACQUIRED BY THE CITY (SAN BERNARDINO WATER UTILITIES CORPORATION AND THE ARROWHEAD VALLEY MUTUAL WATER COMPANY) – APPROVE STAFF RECOMMENDATION

(It is noted that Commissioner Biane recuses himself from this item.)

LAFCO conducts a public hearing to consider LAFCO SC#352 Request for Exemption From Government Code Section 56133 For LAFCO SC#352 – Water Service from City of San Bernardino Municipal Water Department Within the Private Companies Acquired by the City (San Bernardino Water Utilities Corporation and the Arrowhead Valley Mutual Water Company). Notice of the hearing was advertised as required by law through publication in *The Sun*, newspaper of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies, County departments 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 here. She states that the City of San Bernardino has requested an exemption from the provisions of Government Code Section 56133 which requires LAFCO approval for out-of-agency service contracts for

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services such as the extension of water and sewer facilities. She says that specifically, the City has acquired the operations of two private water companies over the years and is required to continue to provide their service within their service areas. She indicates on the overhead display the areas outside the existing city boundaries that are affected. First is the San Bernardino Utilities Corporation, which the City actually operated for 11 years before it was condemned and made part of the City's Water Department. She points out on the overhead display the current areas outside the City's boundaries affected by this former private company and says the City has provided the services since the early 1980s and is now requesting exemption from the LAFCO approval process for contracting to provide the water service. Second is a mutual water company, Arrowhead Valley Mutual Water Company, located in Arrowhead Suburban Farms, a totally surrounded island within the City of San Bernardino. She says the City acquired this water company through a three-party agreement in 1925 and has continued to provide service to the present. She explains that the exemption is in two parts: first, the City was serving outside its boundaries prior to 2001; therefore, those existing services would be grandfathered in without further LAFCO review. Second, the Commission has a policy related to the acquisition of private and mutual water companies outside an agency's jurisdiction. In this case, authorization has been requested to continue to provide service and new connections without having to obtain Commission approval for each service contract. She explains that the City has provided documentation to show the certificated service for the private water company and the area that was required for the mutual water company when it acquired the shares. She adds that this proposal requests exemption of new connections to undeveloped properties within the prior certificated service areas, without the obligation to obtain Commission approval. She says this will not change the obligation of anyone seeking sewer service in the areas outside the City's boundaries; however, for water connections, this would exempt those property owners. She refers to the policy language shown on the overhead display and says that the recommendation is to determine that LAFCO Service Contract 352 is exempt from the provisions of Government Code Section 56133(e), as the service obligation existed prior to 2001, and to approve the exemption, as outlined by Commission policy, that water service may be extended to the prior service areas without further Commission approval. She explains that there has been some confusion relating to connection of water service in these areas for County developments. The approval of staff's recommendation will streamline the process and reduce confusion for all parties.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner Cox asks if these are larger parcels that would typically be on septic tanks rather than sewer. Ms. McDonald states that some are and some are developing commercial and industrial projects that will require sewer service. She says the City currently provides sewer service to some properties along Kendall and Cajon and could connect others, depending upon the development.

Commissioner McCallon moves approval of the staff recommendation, seconded by Commissioner Williams. Chairman Mitzelfelt calls for opposition to the motion. There being none, the motion passes with the following vote: Ayes: Bagley, Cox, Curatalo, McCallon, Mitzelfelt, Williams. Noes: None. Abstain: Biane. Absent: Nuaimi (Commissioner Williams voting in his stead).

DISCUSSION OF PROPOSED CALAFCO BYLAW AMENDMENT FOR REGIONAL REPRESENTATION – “NO” VOTE SELECTED

Ms. 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. She states that the ballot language presented by the CALAFCO Board of Directors provides for four regions within the state for representation on the CALAFCO Board. Each region would elect four representatives to the Board

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of Directors: one city, one county, one special district, and one public member. The new election process would be implemented at the 2010 CALAFCO Conference in October. All current sitting members of the CALAFCO Board would lose their seats and an entirely new Board composed of 16 members would be seated in October. She says that the staff recommendation is to direct Ms. McDonald to file a "yes" vote on regional representation as it represents the best option for the organization as a whole. Ms. McDonald notes that there is no recommendation on whether or not to continue to participate in CALAFCO as the Commission directed that that issue would be decided following the representation vote. Ms. McDonald notes that discussion will be held at the July hearing. She says seven LAFCOs have voted to support regional representation, including Los Angeles and San Diego.

Commissioner Biane states that he finds it surprising that the southern region will only have 25 percent representation on the Board even though the southern region represents over 50 percent of the state's population. It is his opinion that this does not go far enough to give southern California fair representation. Ms. McDonald states that the change from one representative out of 15 to four representatives out of 16 places southern California in a much better position. She expresses the opinion that, that whether a decision is made to stay with CALAFCO or not, the organization, in order to be reflective of its constituencies, must have regional representation. She says the Coalition of California LAFCOs, which represents the southern region, will continue regardless of whether the regional representation issue moves forward. She says that how often it meets may change based upon the outcome of this vote, however its voice and educational pursuits will continue. Commissioner Biane says that his recommendation would be to have eight representatives from the southern region, expanding the Board to 20, which would slightly underrepresent the southern California population, but would be more equitable. Ms. McDonald explains that, at this time, the vote is up or down on the By-law amendment presented by the Board of Directors.

Commissioner Cox states her concerns are the same as those expressed by Commissioner Biane. She believes there should be greater representation based upon population.

Commissioner Williams asks if the new Board of 16 can set about to expand the makeup of the Board. Ms. McDonald states that would require another bylaw amendment. Legal Counsel Clark Alsop states the bylaw amendment establishes a 16-member body in four regions and if someone wants to propose to amend the bylaws further it can be done later. Secondly, he states that the regions are generally described, but the lines are not fixed in the bylaws. A county can request to be moved from one region to another with Board approval. Ms. McDonald explains that the four representatives for each region would be elected at caucuses at the annual conference. She says if there is a failure of any region to fill its four seats, it becomes at at-large vote and the entire membership would vote to place someone in that position.

Commissioner Mitzelfelt states that this does place southern California at a disadvantage as a region because the region has more than half the state's population with only one-fourth the representation. He points out that the U.S. Senate gives every state two senators regardless of population. He says he is inclined to support the proposed bylaw amendment. He asks if the current Board of Directors would be deciding this. Ms. McDonald states the current Board voted to put the matter to a vote of the general membership. The current Board is unanimously in support.

Mr. Alsop states that some people believe that some of the LAFCOs were coerced into paying dues last year in order to participate. Therefore, this is set up so that all LAFCOs with paid dues can vote without having to renew their membership. Based upon the outcome, LAFCOs may or

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may not renew their membership.

Commissioner Cox reminds the Commission of the animosity expressed toward southern California at the last CALAFCO conference and says this still renders a position of weakness rather than strength and sees no harm in asking for eight votes for southern California.

Commissioner Bagley states this is a step in the right direction and the south needs to have a voice in Sacramento. He believes the onus is on all LAFCOs to work from within to change the organization.

Chairman Mitzelfelt asks if a yes vote can be directed with a request to increase representation for southern California. Ms. McDonald states there is no ability to submit another bylaw change for vote; however, at the annual conference different perspectives can be put forward. The Commission's position can be noted with regard to population and representation, but the vote at this time is either up or down on the bylaw amendment. She agrees that it is a good first step, but is by no means the end of the discussion. Representatives of CALAFCO attended the CCL meeting last week and indicated their desire to work with the southern California LAFCOs. They were made aware that CCL will continue either as an adjunct to CALAFCO or on its own. She says that the removal of many of the experienced Executive Officers on the legislative committee has been noticed, so CALAFCO is aware of the expertise of the southern counties LAFCOs.

Commissioner McCallon states CALCOG is in a similar situation. He says there are four major MPOs in the state, one of which is SCAG. At the last meeting CALCOG was informed that legislation is being pursued by CALCOG that SCAG and many other agencies in the state oppose. The MPOs informed CALCOG that the MPOs would only participate if CALCOG cut its budget by 75 percent and became an information-gathering organization only and not an advocacy organization.

Commissioner Biane moves to direct a no vote with direction to staff to provide a letter of explanation, seconded by Commissioner Cox. Commissioner Williams asks what would happen if the vote fails throughout the state. Ms. McDonald state there would then be no change to the Board of Directors. Commissioner Bagley states he is also displeased with CALAFCO, however he is not opposed to opening the door for regional representation. Mr. Alsop states that if regionalization passes and a new Board is elected a stronger legislative voice would result. He believes that southern California may want to propose a policy that says each of the regions must support a particular action and if a region does not support, CALAFCO would not take a position. Ms. McDonald states a discussion was held at CCL that legislative policies must be amended to not allow CALAFCO to support a piece of legislation if one region opposes it.

Commissioner Mitzelfelt asks if there are other associations that were at one time statewide that split into two organizations. Ms. McDonald states she does not know the answer, but there have been statewide organizations that have suffered through regionalization issues, including CSDA and the League of California Cities.

Chairman Mitzelfelt calls for further questions or comments from the Commission. There being none, the motion passes with the following roll call vote: Ayes: Biane, Cox, Curatalo, McCallon. Noes: Bagley, Mitzelfelt, Williams. Abstain: None. Absent: Nuaimi (Commissioner Williams voting in his stead).

Mr. Bagley comments that the message is clear that this Commission is dissatisfied with

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CALAFCO. Commissioner Biane asks that the Commission support a communication from the Executive Officer thanking CALAFCO for its efforts but this does not represent the population. Ms. McDonald states CALAFCO has never been based upon population but will provide a letter of explanation with the ballot submission

PENDING LEGISLATION REPORT

Ms. McDonald states she has distributed the status report provided to CCL by Mr. Harry Ehrlich of San Diego LAFCO, which identifies that the Omnibus Bill is moving forward. She says some corrections have been requested and concerns have been conveyed to CALAFCO and Mr. Ehrlich about the changes to the Revenue and Taxation Code.

She refers to SB1174 and says it was not anticipated to move forward, however, has now gained new traction. It refers to general plans in disadvantaged unincorporated communities. She says that at present LAFCOs are not addressed, as it is a function of city and county general plans where issues are defined, such as what a disadvantaged unincorporated fringe community or legacy community are. Each would be required to be addressed and acknowledged in a general plan. The League of California Cities and CSAC are opposed to this bill, but the bill has moved out of committee. She says the author is considering placing LAFCO and the service review sphere of influence update as part of this bill to address these legacy, fringe and unincorporated island communities. Mr. Alsop states that there was concern among city and county members that this would put significant financial burden on cities and counties to either amend their housing element or general plan. It does not, however, address the problem of getting money to the fringe communities that may need a sewer or water system, for example. This would just increase the cost to the government without providing the service.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reminds the Commission that the June hearing will be held in the City of Victorville Council Chambers in the evening. Closed session will begin at 4:30 with open session to begin at 5:00. If necessary, the closed session will reconvene following conclusion of the public hearings.

COMMISSIONER COMMENTS

Commissioner Bagley thanks the Commission for selecting him as the voting public member. He says this is a particularly challenging time for local and regional governments and he is happy to serve.

Chairman Mitzelfelt thanks the Commissioners for their confidence in selecting him as chairman. He will use the opportunity to advance good government.

Commissioner Colven thanks the Commission for selecting him as the alternate public member.

Commissioner McCallon states he appreciates the leadership that Commissioners Nuaimi and Mitzelfelt have given the Commission. He also thanks Commissioners Bagley and Colven for stepping forward to serve.

Commissioner Curatalo echoes the same sentiments and thanks Special Districts for electing him to the position and to the Commission for electing him as vice-chairman.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 19, 2010**

COMMENTS FROM THE PUBLIC

Chairman Mitzelfelt calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE
HEARING IS ADJOURNED AT 11:50 A.M.**

ATTEST:

ANNA RAEF, Recording Secretary

LOCAL AGENCY FORMATION COMMISSION

BRAD MITZELFELT, Chairman