

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 21, 2012**

REGULAR MEETING

9:00 A.M.

NOVEMBER 21, 2012

PRESENT:

COMMISSIONERS: Jim Bagley
James Curatalo, Chair
Larry McCallon
Kimberly Cox, Vice-Chair
Brad Mitzelfelt
Robert Smith

STAFF: Kathleen Rollings-McDonald, Executive Officer
Paula de Sousa, Legal Counsel
Samuel Martinez, Assistant Executive Officer
Michael Tuerpe, Project Manager
Rebecca Lowery, Clerk to the Commission

ABSENT:

COMMISSIONERS: Janice Rutherford
Neil Derry, Alternate
Sunil Sethi, Alternate
Diane Williams

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:10 A.M. – SAN BERNARDINO CITY COUNCIL
CHAMBERS**

Chairman James Curatalo calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Curatalo 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 is none.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

2. Approval of Minutes for Regular Meeting of October 17, 2012
3. Approval of Executive Officer's Expense Report
4. Ratify Payments as Reconciled for the Months of September and October 2012 and Note Cash Receipts
5. Update of LAFCO Policy and Procedure Manual, Subsection Application Processing, to include Policy and Procedure Related to LAFCO Legal Counsel Conflict Waiver

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LAFCO considers the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's expense report and a staff report outlining the staff recommendations for the reconciled payments. Also included is the update for the LAFCO Policy and Procedure Manual. Copies of each report are on file in the LAFCO office and are made a part of the record by their reference herein.

Executive Officer Kathleen Rollings-McDonald states that no items have been requested to be deferred for discussion.

Commissioner McCallon moves approval of the consent calendar, second by Commissioner Cox. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, McCallon. Noes: None. Abstain: None. Absent: Mitzelfelt, Rutherford, Williams.

PUBLIC HEARING ITEMS:

CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

RECONSIDERATION OF LAFCO 3152 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR TWENTYNINE PALMS PUBLIC CEMETERY DISTRICT (CONTINUED FROM AUGUST 15, 2012 HEARING)

LAFCO conducts a continued public hearing of the reconsideration of LAFCO 3152 – Service Review and Sphere of Influence Update for Twentynine Palms Public Cemetery District.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a 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 at the May 16, 2012 hearing, the Commissioners considered the service review/sphere of influence update for the Twentynine Palms Cemetery District as part of the overall Twentynine Palms community review. At the conclusion of the hearing, the Commission took the following actions; it adopted a zero sphere of influence based on financial and operation issues identified in the LAFCO staff report and at the hearing, it modified the service description of the District's authorized Cemetery function, imposed conditions requiring ongoing reporting to LAFCO, directed LAFCO staff to submit the Commission's determinations on questionable activities to the Grand Jury and District Attorney's Public Integrity Unit for further evaluation, and continued the adoption of the Commission's resolution to the June Hearing.

She states that at the June hearing LAFCO staff requested and the Commission approved a reconsideration of the District's service review. This request was based upon the anticipated completion of the District's audits requested by LAFCO staff and on the submission of supplemental information from the District responding to some of the questions posed by LAFCO staff over the preceding year. The reconsideration was

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originally scheduled for the August 15, 2012 hearing; however, the Commission again approved the District's request for continuance based on the information that the District's audit for FY 2010-11 was nearing completion and was relevant to the consideration.

Ms. McDonald states that today's hearing is to hear the reconsideration of the service review and sphere of influence determination for the Twentynine Palms Cemetery District. Three of the seven factors mandated by Government Code Section 56430 are being reconsidered; the determinations for disadvantaged unincorporated communities, financial ability and government structure.

She states that when the District's service review was heard, the Commission had not adopted its current policy on disadvantaged unincorporated communities so staff had provided a generic review of those factors. She states that the overhead display clearly identifies what those areas are, based on the Commission's adoption of its policy on disadvantaged unincorporated communities, within the District's boundaries.

(It is noted that Commissioner Mitzelfelt arrives at 9:17 a.m.)

Ms. McDonald states that the District's financial ability to provide service is the second item to be reconsidered. She says that this has been the crux of the issues of concern related to the service review for the District. The report outlines a number of on-going concerns related to the financial transactions and operations of the district. She states that the District has been making great advances in the last five months to identify and deal with their issues and to try to move forward in a more comprehensive and transparent manner. However, LAFCO staff still has some significant concerns with regard to the District's finances. She says that LAFCO staff has received the District's general fund audits and the information is detailed on page 7 of the staff report. She states that at the end of FY 2010-11, the unassigned fund balance of the general fund dropped severely from \$125,796 to \$8,211. The decrease is attributed to a capital outlay that has not been identified specifically in the provided materials. This creates a real concern on the liquidity of the general funds based on the audits that have been provided to staff. Ms. McDonald identifies that an audit is an analysis of the transactions provided by the agency and does not delve into whether or not the transactions were appropriate. It is simply a review of financial documents provided. She says that issue of liquidity rises once again in reviewing the General Fund; in FY 2005-06 the Total Fund General Fund balance was 103%, which then dropped to 2% in FY 2010-11.

Ms. McDonald states that since May the District has provided budget material. These materials show that an adequate reserve was not provided in FY 2010-11 but was re-established in FY 2011-12. The documents identify a transfer in the amount of \$91,198 and the district has been requested to identify what the source of that fund is since currently LAFCO staff is unaware of what it might be. She recaps in saying that this is a historical review of the District's finances and that LAFCO staff still has concerns.

Commissioner Cox states that she has a question regarding the finances of the District. She asks how the District could not know where the funds came from.

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Ms. McDonald states that the documentation is sparse and that representatives from the District are in attendance to answer questions from the Commission. She says that the challenge comes from a change in administration of the District and transactions between funds that are noted in the staff report. Ms. McDonald states that this information is the basis for the staff's request that a forensic audit be conducted for the endowment fund that has a public trust attached to it. Commissioner Cox states that the dramatic swing in the numbers leaves a lot to the imagination.

Ms. McDonalds states that the Endowment Care Fund chart on page 9 of the LAFCO staff report had an error and that a corrected copy of the chart has been provided. Additional audits were received and the chart was expanded to include the newly received information. She says a primary area of concern is in the Endowment Care Fund; this fund is a public trust and no portion of the principal can be expended. Its purpose is to provide for the long-term, perpetual maintenance of the final resting place for all of these individuals; the district has an obligation to establish the fund and maintain it for future perpetual care. She says that staff's concern is that the endowment principal amount fluctuates significantly; and the irregularities for FY 04-05 & FY 05-06 cannot be explained by District staff. The concern is that the endowment principal has been reduced over the last three years. In taking the information from the audit recently provided for revenues received during the period deposit into the restricted Endowment Care Fund, the balance should be more than \$165,000. It is LAFCO staff's recommendation that the District be required to conduct a forensic audit of this fund to assure the public's trust is maintained.

Ms. McDonald states that the Pre-Need Burial Fund is a fiduciary fund that is used to account for assets held by the District as an agent or trustee for individuals, private organization, other governments and/or other funds. It is a private-purpose trust fund that transfers funds from its earnings to the General fund to finance burial expenditures. She says that on page 10 of the staff report the chart lists the interest earn in the Pre-Need Fund as more than the interest earned in the Endowment fund; while the Endowment fund has more money. This raises the question as to who determined where the interest for these funds was applied. She says that LAFCO staff has no concerns for this fund; the transfers shown for this fund match the amounts deposited in the general government account; however, no portion of these funds have been deposited into the endowment care fund. LAFCO staff has also raised the concern that the District has not provided a Management Discussion and Analysis as required by government accounting standards; therefore, it is recommending that the Management Discussion and Analysis information be included in all future audits.

Ms. McDonald states that the final area for reconsideration is the accountability for community service needs, including government structure and operation efficiencies. She says that in the May staff report LAFCO staff identified that the Board terms were not staggered in two-year increments. The Clerk of the Board is responsible for maintaining the records and coordinating the appointment process; LAFCO staff has worked with the Clerk of the Board to comply with the provisions of Public Cemetery District Law by staggering the terms in even years so this issue has been resolved.

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Ms. McDonald states that the District is working with its audit firm to establish its appropriation limit, which should be completed by the end of this fiscal year.

Ms. McDonalds states that LAFCO staff is recommending that the Commission note receipt of the amended service review, reaffirm its overall determinations for the District with the following amended conditions; the District shall be required to conduct a forensic audit of its Endowment Care Fund to accurately account for the principal impressed with a public trust required to maintain the facilities in perpetuity; for the next five years the District is required to provide the Commission annually with a copy of its adopted preliminary and final budget, its mid-year budget review, and copies of the audits presented to the District; the District is required to provide the County Auditor with copies of all audits and current budgets and the State Controller with copies of all audits as required by law; the District is required to adopt and implement an appropriation limit no later than May 1, 2013 and provide the board approved documentation to LAFCO; and LAFCO staff is to provide biannual updates to the Commission until the issues are resolved. She states that LAFCO staff is recommending that the Commission rescind its direction for LAFCO staff to submit the Commission's determinations to the Grand Jury and District Attorney Public Integrity Unit for further evaluation at this time since the District is cooperating with LAFCO staff to resolve the Commission's concerns and is also providing financial documentation.

Ms. McDonald states that the District has submitted a letter outlining its effort to correct the deficiencies identified by LAFCO in its service review. They have requested that the Commission determine that its sphere of influence be coterminous with the District's existing boundaries. She says that LAFCO staff does not believe that the information provided by the District supports the District's request; however, if the Commission chooses to move in that direction, LAFCO staff's recommendation would be that the sphere be modified as originally presented as an option at the May hearing and not a coterminous sphere of influence.

Ms. McDonald states that the District is working hard and has made significant strides in addressing their internal operations however; it is LAFCO staff's belief that more work is still needed from the District. The financial record keeping and transactions still need to be resolved and at this time LAFCO staff believes that a zero sphere of influence remains appropriate.

Ms. McDonald reviews LAFCO staff's recommendations asking that the Commission grant the request for reconsideration submitted by the LAFCO Executive Officer at the June 20, 2012 hearing; amend the Service Review Determinations 2, 4, and 6 for LAFCO 3152, as provided in the report presented at this hearing and file the amended report, determine that no change to the adopted Notice of Exemption is required by this action, reaffirm the Commission's determination of a zero sphere of influence designation for the Twentynine Palms Public Cemetery District (LAFCO 3152) with the following amended conditions: that the District be required to conduct a forensic audit of its Endowment Care Fund to accurately account for the principal impressed with a public trust required to maintain the facilities in perpetuity; that for the next five years the District

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be required to provide the Commission annually with a copy of its adopted preliminary and final budget, its mid-year budget review, and copies of the audits presented to the District; that the District be required to provide the County Auditor with copies of all audits and current budgets and the State Controller with copies of all audits as required by law; that the District be required to adopt and implement an appropriation limit no later than May 1, 2013 and provide the board approved documentation to LAFCO; and that LAFCO staff provide biannual updates to the Commission until the issues are resolved; and for the Commission adopt LAFCO Resolution 3163 setting forth the Commission's findings and determinations as amended.

Ms. McDonalds states that if the Commission should chose to take a different action that the sphere of influence determination be made based upon the information submitted by LAFCO staff and the Board of Trustees. The Commission would need to modify Recommendations 3, 4 and 5 as follows; for environmental review certify that the sphere of influence modification for the Twentynine Palms Cemetery District (LAFCO 3152) is statutorily exempt from environmental review and direct the Clerk to file a new Notice of Exemption within five (5) days; for LAFCO 3152, approve a modified sphere of influence for the District, to include the communities of Twentynine Palms and Wonder Valley; and continue the adoption of the Resolution setting forth the Commission's findings and determinations to the January 16, 2013 hearing.

Chairman Curatalo asks for questions from the Commission.

Commissioner Cox states that Board of the District is to be commended for responding to LAFCO staff on the issues outlined in the staff report. She says that they have come a long way and have a long way to go and that she is comfortable with the zero sphere and to give the District an opportunity to continue to prove themselves.

Commission Bagley asks if there is reason that the service review needs to be completed at this hearing or if it can be continued until the forensic audit is completed.

Ms. McDonald states that the conditions of the service review are that LAFCO staff is provide to the Commission a biannual update until the District's issues are resolved. She says that the Commission can reopen the review at any time and that the law states that a service review must be completed every five years so concluding the service review will complete that requirement. As part of the conditions of the service review, LAFCO staff will continue to present status reports to the Commission on this item. The Commission always has the ability to initiate a sphere of influence update.

Commissioner Bagley states that he does not see a critical need for a sphere adjustment at this time, however, there are some very serious questions regarding the endowment fund and that the forensic audit is appropriate and is in the public's interest. He states that although he does not know the details, that he is aware that there were internal issues in the District and that situations such as this is the reason that LAFCO conducts service reviews so that issues that a district may not be aware of can be brought forward and resolved. He notes that this is a part of the LAFCO directive to oversee districts and keep an eye on the interest of the public. He says that he would like to have the District's

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forensic audit presented to the Commission as quickly as possible. He says that it is important to determine the District's true financial standing and to make sure that there is a transparency to the financial transactions and to ensure that the public interests are being maintained.

Ms. McDonald states that LAFCO staff has conveyed to the District on numerous occasions that LAFCO is available to assist them and will help the District in the process of their forensic audit by providing information on potential firms that can conduct the forensic audit. Ms. McDonald notes that it is critical to have the forensic audit performed so that the District can have a base on which to move forward and can ensure that they are conforming to the laws that regulate cemetery districts and the funds provided for their maintenance.

Chairman Curatalo asks what the time lines are for updates to the Commission regarding the District. Ms. McDonalds states that LAFCO staff will be returning to the Commission with status reports on the District as an information item every six months for the next five years.

Chairman Curatalo asks if the District would like to address the Commission.

Betty Laferriere, Chairperson for Twentynine Palms Cemetery District, states that the board is pleased for the opportunity to clear up any misunderstandings in the District operations and that she had previously communicated that the District had poor representation in their office and that the Board was not aware of some of the issues within the District, however new office staff is in place. She states that concerning the \$91,000, the expense had to due with the beautification of the cemetery; the District installed niches, a memory wall and had to update the cemetery to make it handicap accesble. The board is aware the the monies for these expenses were taken from the wrong funds and they are working to get the monies into the apporprate accounts. She says the District is available to answer any questions from the Commision.

Chariman Curatalo asks the Commision if they have any questions, seeing none, he thanks Ms. Laferriere for her comments.

Commissioner McCallon moves approval of the staff recommendation, second by Commissioner Bagley. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, McCallon, Mitzelfelt. Noes: None. Abstain: None. Absent: Rutherford, Williams.

DEFINITION OF COMMUNITY AND SERVICE REVIEW FOR MORONGO VALLEY WHICH INCLUDES THE REVIEW OF COUNTY SERVICE AREA 70 ZONES F, W-3, AND TV-2 AND GOLDEN STATE WATER COMPANY (DEL NORTE AND DEL SUR SYSTEMS); AND,

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3151; AND (2) LAFCO 3151 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR

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THE MORONGO VALLEY COMMUNITY SERVICES DISTRICT

LAFCO conducts a public hearing to consider the Definition of Community and Service Review for Morongo Valley which includes the review of County Service Area 70 Zones F, W-3, and TV-2 and Golden State Water Company Del Norte and Del Sur Systems and the CEQA Statutory Exemption for LAFCO 3151 and Service Review and Sphere of Influence Update for the Morongo Valley Community Services District. As required by State Law notice of the hearing was provided through publication of a one-eighth page legal notice in a newspaper of general circulation, the *Hi-Desert Star*. As required by law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Assistant Executive Officer Samuel Martinez and Project Manager Michael Tuerpe present the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Mr. Martinez reviews on the overhead the LAFCO defined Communities of the Morongo Basin – South Desert Region. He states that the community is served by multiple public agencies as noted in the staff report and reviews the agencies on the overhead. Mr. Martinez states that in the early 1970's the Commission established spheres of influence for the Morongo Valley and Yucca Valley communities however, the Commission did not establish a western sphere boundary between the Morongo Valley and Yucca Valley communities. He says that staff's analysis indicates there are three parameters that the Commission should use to assist in the evaluation of the existing Morongo Valley community definition: Topography, Land Ownership, and County Community Plan.

He reviews the topography of the area stating that Big Morongo Canyon creates a constraint along the north/northwest portion of the community and along the south/southeast portion of the community characterized by gentle to very steep slopes that inhibit service delivery. He reviews the land ownership of the area and says that it encompasses public lands that are managed by either the Bureau of Land Management (BLM) or the US Forest Service (USFS). He says that staff reviewed the County Community Plan and, as has been identified to the Commission on prior occasions, the County's plan does not take into account the boundaries of existing service providers for the area. In the case of Morongo Valley, it includes areas outside of the Morongo Valley Community Services District (CSD) boundary and/or sphere of influence.

He says that given the limitation of the parameters, it is staff's position that the Commission's historic Morongo Valley community definition remain as the sphere of the Morongo Valley Community Services District, with a modification on the west and northwest of its existing sphere to include the area where the CSD currently provides fire and medical emergency services within the San Gorgonio Wilderness.

Mr. Martinez reviews the regional services for the CSD. He states that the water supply in the area is good, but the quality is poor, most of the local ground water does not meet drinking water standards. He reviews a map of the three primary water service providers in the community; County Service Area (CSA) 70F, CSA 70 W-3 and the Golden State Water Company (Morongo Del Sur and Morongo Del Norte water systems). Mr.

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Martinez states that the Community generally lies outside the Mojave Water Agency (MWA); therefore, they are not able to receive State Project water allocations from MWA for recharge of the basin. LAFCO staff identified high levels of uranium in the community's groundwater. Within CSA 70 Zone F, the levels exceed maximum contaminant levels while within CSA 70 Zone W-3; the uranium levels are bordering the maximum contaminant level. Mr. Martinez reviews the water rates for the area on the overhead and notes that Zone F and Zone W-4 have the highest water rates in the Morongo Basin.

Mr. Martinez states that concerning wastewater, the entire Morongo Valley community has been developed with on-site wastewater disposal systems such as septic tanks and leachfield systems. He reviews the map for the fire service providers within the Morongo Valley community and the location of the fire stations that serve the community on the overhead. He says that fire protection and emergency response within the Morongo Valley community are provided primarily by the CSD and that for the areas that are outside of the CSDs boundaries are provided by the San Bernardino County Fire Protection District (County Fire) through an automatic aid/mutual aid agreement with the CSD. He states that ambulance service is provided by the Morongo Basin Ambulance Association (MBA) and reviews the exclusive operating areas (EOAs) on the overhead map.

Mr. Martinez states that with regard to roads within the community, Caltrans is responsible for maintaining Highway 62 and that the County maintains the remainder of the roads within the County maintained system. He states that the solid waste service is provided by Burrtec for curbside garbage and recycling; residents who chose not to pay for private trash collection can opt to take their trash to the County's Trail's End Transfer Station.

Mr. Michael Tuerpe, Project Manager, states that the Commission has heard the overview of the services within the CSD and that he will be presenting the more challenging issues within the District. He reviews the six mandatory factors for consideration in a service review as required by Government Code 56430. He reviews the area on the overhead and states that for the growth and population projections most of the area's land use designations are resource conservation and rural living, representative of the amount of public land within the community limiting growth.

Mr. Tuerpe reviews on the overhead the map of the area identified as a disadvantaged unincorporated community and states that the Government Code defines disadvantaged unincorporated communities ("DUC") as those that have an annual median household income that is less the 80 percent of the statewide annual median household income. He says that portions of the District unincorporated sphere of influence and the community itself is considered a disadvantaged unincorporated community.

Mr. Tuerpe reviews the present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies section of the service review. He states that for fire protection staff identified the training constraints for the District; training of its staff could be increased if the District were able to acquire additional

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training facilities; however, funding is the primary restriction. In addition, with regards to fire administration, issues were identified in the District's annual report regarding administrative oversight as noted in the staff report. The District is actively addressing the administrative issues individually and will be adopting an ordinance to incorporate recent changes to the 2009 International Uniform Fire Code and the 2010 California Fire Code. He states that both the Fire Chief and the General Manager of the District are new employees and that they are helping to facilitate the improvements in the District.

Mr. Tuerpe reviews the Park and Recreation facilities on the overhead. He says that the area noted as Covington Park is owned and operated by the District. He also outlines the area owned by the County that is leased, operated and managed by the District. He says that the District entered into an agreement with the County to lease these lands with a term starting in 1979 and ending in 2004; the contract was superseded in 1986 with an amendment in 1987. The agreement states that the District is to manage the area as a public park. In addition, the terms of the agreement required the District to pay the County \$1 annually as rent for the premises. At the expiration of the lease on December 31, 2008, all structures and improvements made upon the lease area were to be vested in the County by terms of the agreement. He says that LAFCO staff reviewed the status of the lease with the County and discovered that the District is operating its facilities on County land while lacking a lease. He says that the District met with the County and that a second meeting is scheduled for December and that the District is seeking a new long-term lease with the County.

Mr. Tuerpe reviews the District's fund balance on the overhead and states that with regard to the financial ability of the District to provide service, the District has a substantial amount of fund balance and that most of it is in the undesignated category. He states that the District receives two types of revenue, property tax revenue and fire assessment revenue. He says the revenue from property tax has decreased, however, in comparison to other areas of the County; the decrease has been relatively low. With regard to the revenue from fire assessment, the District conducted a special assessment election for fire purposes in 2002 and due to a calculation error, it was determined that the assessment election failed. In 2005, the District began contemplation of a new assessment for fire protection and requested a legal opinion on the prior election. It was determined that the prior ballot measure did pass. The District then commenced collection of the assessment approved in 2002 starting with FY 06-07. He states that since the start of collection in FY 06-07, the fire assessment continues to increase annually resulting in an increase in revenue.

Mr. Tuerpe states that with regard to expenditures, the general government and fire operations activities have increased significantly due to staffing in the fire department and operation expenses. However, the District as a whole has had an annual gain and is likely to be able to continue to provide service at its current level through 2014-15.

Mr. McCallon asks why in FY 09-10 park and recreation revenue had \$173,000 in the account. Mr. Tuerpe responds that in FY 09-10 the District received grant revenues for park facilities. He states that LAFCO staff reviewed anticipated grant revenues versus

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anticipated expenditures for the grant monies and once LAFCO staff reviewed, analyzed, and normalized those monies, the District revenue was above the expenditures.

Ms. McDonald notes that on the line items under the category of grant income, grant monies are listed except for FY 09-10, so it is possible that some of the grant income was shown in the park and revenue category by mistake.

Mr. Tuerpe states that the District's General Fund Liquidity is still improving and that the District has enough fund balance to fund expenditures beyond the two-month minimum. He says that LAFCO staff is not projecting any growth for the District's property tax, fire assessment is calculated at 2% based on projections and that as far as projected expenditures, with the increase in fire operations, for the next two years the expenditures will be roughly 2% below the revenues projected.

Mr. Tuerpe states that the District has a large fund balance and that the question becomes are the annual revenues more than the annual expenditures. He says that LAFCO staff hopes that the property taxes do increase and that the funds will be available for services that are funded by property tax such as park and recreation, streetlighting and library services.

Mr. Tuerpe states that with regard to the status of, and opportunities for, shared facilities, the District did not identify any current or future opportunities for shared facilities. However, LAFCO staff suggested that the District collaborate with the County Library for use of its mobile library program or look into a similar program to increase access to library materials for the community.

Mr. Tuerpe states that with regard to the accountability for community service needs, including governmental structure and operational efficiencies, he states that members of the board of directors serve four-year terms and are elected by the voters in odd years or are appointed in-lieu of election by the County Board of Supervisors. The current board has all been appointed in-lieu of election; the past three elections have not yielded enough interest and qualified candidates for a competitive election to be conducted. He says that with regard to the government structure options that the District could opt for a single fire agency for the Morongo Basin and transfer the responsibility of fire protection and emergency service to County Fire and its South Desert Service Zone.

Mr. Tuerpe reviews the Sphere of Influence Update on the overhead. He says that the District has requested an expansion of their boundary by 13 square miles as identified in the staff report. He says that LAFCO staff agrees with the expansion and is recommending that the Commission approve the request. He also reviews the District's functions and services and states that LAFCO staff is recommending that the Commission amend the current description for the Fire Protection function to adequately reflect the service that the District provides; this would add suppression and rescue to the list and remove maintenance of emergency phone service and the emergency reference with regard to first aid.

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Mr. Tuerpe reviews the five factors related to a sphere update on the overhead. He states that the detailed information can be found in the staff report provided to the Commission and that he can answer any questions the Commission may have.

Mr. Tuerpe states in conclusion that the District does have some challenges with their park specifically related to the expired contract with the County. He says that given their present fund balance it is predicted that the District can continue to provide service at the current level. He reviews LAFCO staff's recommendations on the overhead.

Commissioner Smith asks for clarification of the change to the service description with regards to Fire Protection and the change in the emergency first aid listing.

Mr. Tuerpe states that the language used in the listing is the historical LAFCO listing, which staff is trying to update the language to be more consistent with the service descriptions, and the actual services provided.

Ms. McDonald states that at the time the special districts were seated on the Commission, they were required to provide a listing of the services provided. The information was outlined by each district for the services they provided; this listing became known as "Exhibit A" and restricted the extension of service once special districts were seated on LAFCO. The District identified at that time the descriptors noted, LAFCO staff is trying to make the description of the services provided more consistent with the principal act descriptions so that districts and the public understand more clearly the services being provided.

Chairman Curatalo asks if the term emergency medical service would capture all the different degrees of service. Ms. McDonald states that the term rescue encompasses all the different degrees of medical service and that the term emergency first aid is not a term that is used anymore. Mr. Bagley asks if the emergency phone service referred to call boxes. Ms. McDonald states that at one time the District provided dispatch.

Mr. Curatalo asks for further clarification on who appoints the members of the District's Board.

Mr. Tuerpe states that both the County Board of Supervisors and the District Board itself have appointed members, but that for the most part it has been the County Board of Supervisors due to the lack of a sufficient number of people running for membership to require an election; therefore, the appointment of those running was made in-lieu of election.

Mr. Tuerpe reviews the County Service Area (CSA) 70 Zone F – Morongo Valley and County Service Area (CSA) 70 Zone W-3 – Hacienda on the overhead and states that the Commission has limited purview for these agencies since there is no sphere of influence designation; however, they are reviewed as part of the overall service review due to their delivery of municipal services. He states that CSA 70 Zone F has been under a water bottle advisory due to it exceeding the allowable amounts of uranium and gross alpha radiation levels and that CSA 70 W-3 is reaching that level as is Golden

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State Water. He states that the staff report details the information related to this service noting that Zones to County Service Area 70 have low population figures which staff believes cannot generate adequate tax revenues for a comprehensive treatment solution. The two Zones have a budget for localized uranium treatment; however, a comprehensive solution is needed. He states that grants might provide a solution to the lack of financing capability for treatment plants and that the County Special Districts is pursuing grant funding through the State Revolving Fund program. Mr. Tuerpe notes, however, that neither Zone has qualified for funding in the past. Mr. Tuerpe states that the staff report identifies a lack of inter-tie between the two Zones and Golden State Water and that LAFCO staff was informed by County Special Districts that in the past the three agencies have communicated and determined that it would be more expensive to put in inter-ties than to treat the water quality issues. He notes that water quantity is not an issue.

Mr. Tuerpe states that with regard to the financial issues LAFCO staff looks for identification of funds and transparency of finances. He reviews the cash flow for CSA 70 Zone F on the overhead and states that the information is taken from County Special Districts Audit and Budget. He notes that Zone F receives property taxes as listed on the cash flow chart however when the budget chart is reviewed, no property tax revenue is listed. He states that the same applies to CSA 70 Zone W-3; property tax is listed in the cash flow but not in the budget. He says that this issue has been brought before the Commission under previous Zones discussions and has been discussed with the County Special Districts and the County Administrative Office. No change has occurred in the processing and it remains a concern for LAFCO Staff. .

Mr. Tuerpe states that this year the budget information changed; in the past, the budget would reflect salaries and benefits, services and supplies, charges and any other revenues transferred in. In the current budget document, the County consolidated the accounts into one section with no individual breakdown of zones in the published public document for water, roads, and parks. He says that this practice leads to a question of transparency in the Special Districts budget as it eliminates that ability to review the details of transactions and learn how the agency is functioning. LAFCO staff requested the breakdown information from Special District in order to review the details of the budgets. He says that all the information from the audit and the budget has matched up accordingly however; a member of the public will now need to request the information in order to review both the audit and the budget. He says that LAFCO staff has expressed its concern with this issue.

Mr. Tuerpe states that both the Morongo CSD and the two Service Zones do not provide the Management Discussion and Analysis information as part of their audits. The information is not mandatory; however, it allows the audited entity an opportunity to narrate any discrepancies or issues related to the annual audit. He says that LAFCO staff has recommended that the CSD and the County Special Districts Department add the Management Discussion and Analysis to future audits.

Mr. Tuerpe reviews LAFCO staff's recommendations for governmental structure options for the CSD and the two CSA Zones for the Community as a whole on the overhead,

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noting that the Commission does not have jurisdiction in all these areas to implement change. The first being the Consolidation of CSA 70 Zones F and W-3 which would realize one budget, one audit, a single rate structure, and provide for a consolidated voice; the second being the transfer of property tax revenue.. This would be an action that would require County Board of Supervisors approval and is not within the purview of the Commission.

Mr. Tuerpe reviews CSA 70 Zone TV-2. He states that Zone TV-2 has over half a million dollar fund balance and that its expenditures are low; it receives a relatively large share of the property tax, and that revenue less expenditure is increasing the fund balance compounded over time. Commissioner Cox asks where the determination for property tax percentage originated from to which Mr. Tuerpe states that it began prior to the passage of Prop. 13 and became a portion of the 1% ad valorem tax share of the agency. Ms. McDonald states that the Zone was created in 1976, was subject to a different methodology, and received its share based on the expenditures in one given year and the share has been growing, held or reduced by various actions of the state and the CSA continues to receive that share regardless of need. Commissioner Mitzelfelt asks if the TV repeaters are the only option in the area excluding satellite and whether or not the area has cable. Mr. Tuerpe states that the area does not have cable. Commissioner Mitzelfelt states that some of the TV districts are exempt from the requirement of high definition television due to their size and some would like to upgrade to high definition in the future, but questions its practicality.

Ms. McDonald states that if one looks at the option of direct satellite versus property taxes that are not assigned, the question of who will benefit would need to be addressed; the purpose when they were created was to provide TV access to the areas that would otherwise not be able to access TV signals. She states that the staff report notes that the CSA has received significant upgrades in the past year. Commissioner Mitzelfelt asks if the monies would be a candidate for the State program of removing the enterprise districts, to which Ms. McDonald responds that she does not believe that they are considered an enterprise district.

Mr. Tuerpe states that with regard to the Zone's ever-increasing fund balance, there is a provision in Revenue Taxation Code 99.02 that allows for the transfer of taxes from one agency to another if it is within the same tax rate area. Mr. Tuerpe notes that within the tax rate areas of CSA 70 Zones W-3, Zone F and TV 2 the Board of Supervisors could transfer a portion of Zone TV 2 property tax share to Zone W-3 and Zone F which would provide for a decrease in the property tax burden, decrease or stabilization of water rates, and would provide significant upgrades in the water areas.

Commissioner Cox asks if the County Special Districts operates the water system as well as the translator system in that area to which Mr. Tuerpe responds in the affirmative.

Commissioner Mitzelfelt asks if CSA 70 Zone TV-2 receives a general tax or a special tax. Ms. McDonald states that it would not be a new tax; it would be an exchange of the shares that are derived from the general ad valorem tax so that the transfer would reduce the share of TV2 within those zones and increase the water zones share.

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Commissioner Bagley states that it would be his preference that the individuals who live in the Morongo Valley make the decision whether they would want the taxes transferred between Zones in their area. Ms. McDonald responds that the purpose of the service review is to provide this information and suggestions to the public so that they know what options they have, what improvements can be made and so forth. She states that since the County Special Districts has lumped all the budget information for the CSAs and Zones together, the public does not see the detailed information, which is why LAFCO requested the information from County Special Districts and is providing it to the Commission and the public.

Mr. Tuerpe states that the Golden State Water information is detailed in the staff report and that it was provided a copy of the draft of the staff report and had no comments to add. He states the County Special Districts was also provided a copy of the draft staff report and that they did not provide any written comments.

Mr. Tuerpe states that LAFCO staff has identified two CSA 70 zones that remain on the tax roll, CSA 70 W-7 and W-10. These were formed for the purpose of designing improvements to the existing Southern California Water Company, which is now Golden State Water Company. All action in both districts was terminated in 1986 and no monies remain in the accounts, however, both improvement zones remain in place and should be dissolved and removed from the tax roll. LAFCO staff is recommending that the Commission request that the County Board of Supervisors adopt a resolution to formally dissolve these two zones and file the necessary Statements of Boundary Change with the State Board of Equalization to officially remove the zones from the tax rolls in San Bernardino County.

Mr. Tuerpe reviews LAFCO staff's recommendations for the Service Review and Sphere of Influence update for the Morongo Valley Community on the overhead and states that representatives from both the CSD and Special Districts are available for questions from the Commission.

Chairman Curatalo asks for questions from the Commission.

Commissioner Bagley states that the staff report mentioned grant monies for a packaged treatment plant for removing uranium from the water and states that it would imply inter-ties with a treatment plant and asks for more information on the subject. Mr. Tuerpe clarifies that it is not a package treatment plant but rather treatment for the uranium removal. He states that LAFCO staff did not review the grant applications but will be reviewing them on the second round of service reviews that LAFCO staff will be conducting. He states that LAFCO staff is not aware of any inter-ties in the area.

Commissioner Bagley states that he sees the lack of inter-ties as a safety issue; if there were to be a catastrophic failure in the systems it would become an emergency issue and that inter-ties should be part of an emergency plan. Mr. Tuerpe states that the question needs to be asked whether the inter-tie is for fire flow for emergency purpose or for water quality. He says the entire Morongo Valley has the water quality issue so the

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inter-tie would not work because of blending, but that it would be helpful for emergency fire flow; however, the grant application is for water quality.

Ms. McDonald states that the inter-tie would also allow for the security of service and would be a benefit to the residents in the area. Chairman Curatalo states that the inter-tie would not need to be for providing service but rather to be used during emergencies. Commissioner Bagley states that he raises these issues in an effort to be aware of what is needed for long term planning.

Chairman Curatalo calls for questions and comments from the public.

Jeff Rigney, Director, County Special Districts, states that he would like to thank LAFCO staff for their information on the service review. He states that there is a challenge in the area with regards to water quality and that he will review with his staff the issue of inter-ties in the service review area. He states that County Special Districts is currently reviewing different options to address the water quality issue that it is costly to fix, so they are looking at funding issues as well. He states that with regards to the TV districts, currently County Special Districts is reviewing the possibility of consolidation of those districts keeping in mind that those district are expensive to maintain due to the equipment. He says that currently the County Special Districts is in the process of converting from analog to digital and that they have been able to utilize a reimbursement program to help recoup the funds related to the conversion. He states that he will review the possibility of sharing the tax revenue as was suggested by LAFCO staff and that Special Districts is reviewing the TV zones to see if they are still necessary.

Commission Bagley states that LAFCO staff had an issue with the format of the special district's budget materials and states that it is important that the information be transparent so that it can be realistically analyzed and used for future planning of communities. Mr. Rigney states that special districts follows the format of the County in its budget materials and the he does not have direct control in that areas, but the change identified by LAFCO staff is being implemented to identify property tax revenue.

Commissioner Smith states that with regard to the TV translators, when they do not function it becomes a big issue for the public.

Gayle Swarte, Morongo Valley resident, asks the Commission if whoever is going to address the issue of water would look at point of water source RO systems in individual houses. She states that she has used this for the last 15 years and has found it to be cost effective and filters the drinking water adequately. Commissioner Bagley asks if there is a cost related to the dissolution of CSA 70 Zone W-7 and CSA 70 Zone W-10. Ms. McDonald states that there is no cost; the only requirement is approval and action from the County Board of Supervisors.

Chairman Curatalo closes the public hearing.

Commissioner Bagley moves approval of the staff recommendation, second by Commissioner Mitzelfelt. Chairman Curatalo calls for opposition to the motion. There

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being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, McCallon, Mitzelfelt. Noes: None. Abstain: None. Absent: Rutherford, Williams.

**TO BE CONTINUED TO THE FEBRUARY 20, 2013 HEARING
MOUNTAIN REGION REVIEW OF ROAD AND SNOW REMOVAL SERVICES WHICH
INCLUDES THE REVIEW OF COUNTY SERVICE AREA 70 ZONES R-2, R-3, R-4, R-5,
R-7, R-9, R-11, R-12, R-13, R-16; R-21, R-22, R-23, R-33, R-34, R-35, R-36, R-40, R-
44, R-45, R-46, AND ROAD SERVICES FOR COUNTY SERVICE AREA 79 AND ITS
ZONE R-1, AND COUNTY SERVICE 18:**

**SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE/AMENDMENT FOR THE
FOLLOWING:**

**CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3121; AND
(B) LAFCO 3121 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
COUNTY SERVICE AREA 68**

**CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3122; AND
(B) LAFCO 3122 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
COUNTY SERVICE AREA 69 (LAKE ARROWHEAD)**

**CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3119; AND
(B) LAFCO 3119 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
COUNTY SERVICE AREA 59 (LAKE ARROWHEAD)**

Commissioner Cox moves approval of the staff recommendation, second by Commissioner McCallon. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, McCallon, Mitzelfelt. Noes: None. Abstain: None. Absent: Rutherford, Williams.

**PRESENTATION OF RESOLUTION OF APPRECIATION TO SUPERVISOR BRAD
MITZELFELT**

Chairman Curatalo reads and presents a resolution of appreciation to outgoing Commissioner Brad Mitzelfelt. Chairman Curatalo states that it has been a pleasure serving with Commissioner Mitzelfelt on this Commission. Mr. Mitzelfelt thanks the Commission for the opportunity to serve and expresses his appreciation to LAFCO staff for their hard work. He states that he has enjoyed his service on the Commission and the vision that LAFCO is working to accomplish by giving the community a voice in the issues that directly affect them. He says that he is proud to have served on the LAFCO Commission.

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DISCUSSION ITEMS:

**FIRST QUARTER FINANCIAL REVIEW FOR PERIOD JULY 1 THROUGH
SEPTEMBER 30, 2012:**

FINANCIAL REVIEW

**DISCUSSION OF CONTINGENCY TRANSFER TO ACCOMMODATE ANTICIPATED
INCREASED COSTS FOR SAN BERNARDINO COUNTY INFORMATION SERVICE
DEPARTMENT CONTRACT AND REDUCTION IN REVENUES DUE TO CITY OF SAN
BERNARDINO BANKRUPTCY**

LAFCO conducts a public hearing for the review of the first quarter financial review for the period of July 1 through September 30, 2012. 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.

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 states that staff is presenting the first quarter financial report that includes a review of the expenditures and reserves, revenues and cash in the County Treasury. She states that the expenditures are comprised of two categories of accounts, the salaries and Benefits, and the Service and Supplies. Through the first quarter, the total expenditures are at 24% of the Adopted Budget authority. The Expenditures for Salaries and Benefits are at 20% of expenditure authority. Staff has determined to forgo the recruitment of the LAFCO Secretary approved in the budget and has instead filled the position for this fiscal year through a contract with a temporary clerical services agency; the cost savings is \$42,499. LAFCO staff is requesting a decrease to the Expenditure Account 1010 (Regular Salary) by \$22,000 and an increase to Expenditure Account 2335 (Temporary Services) by \$22,000 to allow for payment of temporary clerical staff.

Ms. McDonald states that the Service and Supplies are at 33% of expenditure authority. She says that the higher amount is due to beginning of the year payments and payments of full costs for insurance, GIS data and others. In addition, the cost for payment for the Commissions ongoing scanning project was carried forward into this fiscal year. She states that no requests for utilization of the Contingency and Reserves account at this time.

Ms. McDonald states that there is \$721 in interest in the Revenues Account and that interest is anticipated to be less than 1% for this fiscal year. The Commission has received 96% of the apportionment and that the apportionment due from Baker will be recovered from the first proceeds of taxes through the auditor's office and that the

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apportionment due from the City of San Bernardino will be addressed in bankruptcy court, as previously discussed by the Commission.

Ms. McDonald states that the Fees and Deposits are at 98%, which translates into one proposal, one out-of-agency, service contract and cost recovery for one service review. She says that the Commission's carryover from the prior year is as follows: Full Carryover of Prior Year Contingency and Reserves in the amount of \$339,510; Full allocation of Digital Scanning Archive Project in the amount of \$33,056; Carryover from Prior Year in the amount of \$109,166. Ms. McDonald reviews the activity chart on the overhead.

Ms. McDonald states that staff has proposed the following budget amendments; she asks the Commission to recognize the full carry over into the Fiscal Year 2012-13 and Increase Revenue Account 9970 by \$58,371 to \$109,166. She asks the Commission to prepare for the costs for legal filing and possible failure to receive the City of San Bernardino's apportionment by increasing the Contingency Expenditure Account by \$40,403. She asks the Commission to increase the expenditure account 2450 (System Development) by \$13,234 to cover increased costs associated with the termination of the prior contract with the County's ISD department and to cover the implementation of a new contract effective October 23, 2012. She says that with the change in the recruitment of a LAFCO Secretary a decrease in the Expenditure Account 1010 (Regular Salary) by \$22,000 and an increase to fund the Expenditure Account 2335 (Temporary Service) by \$22,000 is also requested.

Ms. McDonald asks the Commission to recognize the carryover of Funds to the digital Archiving Project and increase the Expenditure Account 2445 (other Professional Services) by \$33,056 and to increase the Revenue Account 9960 (Digital Archiving Project) by \$33,056. She also asks to that the Commission decrease the Expenditure Account 2445 (Other Professional Services) 2445 by \$10,629 and increase the Expenditure Account 2450 (System Development) by \$10,629 due to the new contract with the County's ISD Department for the new web-site project. She states that the staff recommendation is listed on page one of the staff report.

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

INFORMATION ITEMS:

LEGISLATION REPORT

Executive Officer Kathleen Rollings-McDonald states that there is no pending legislative report and that the first meeting of the CALAFCO Legislative Committee was held by conference call in November and that a full meeting is scheduled for December 7, 2012. She states that this is the opening of a new 2-year legislative session and one of the items that will be on the forefront is the review of disincorporation procedures.

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Ms. McDonald states that the Commission has been provided with a copy of the CALAFCO response to the SB 244 Technical Advisory Report. She asks that if any member of the Commission has legislative issues regarding LAFCO that they forward those to her by January and she will compile a list for presentation to the legislative committee. She says that the amendment to 56133 that would allow LAFCO to address items such as the Big Bear Department of Water and Power which has created some consternation statewide and LAFCO continues to monitor and advocate for flexibility to address the unique situations where private water companies are acquired by a public water system.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that LAFCO staff has provided the Commission with the City of Victorville's response to the 2011-12 Grand Jury Report since it discussed several items related to LAFCO and issues regarding expectations of dissolution of several districts. She states that LAFCO staff has their own opinions regarding comments made by the City of Victorville regarding items that LAFCO did not question since one can only question information that one knows.

Ms. McDonald states that LAFCO staff is proposing the cancelation of the LAFCO Hearing for January since there are no service reviews or proposals ready to be presented to the Commission. The next hearing will be held on February 20, 2013.

COMMISSIONER COMMENTS

Commissioner McCallon congratulates Chairman Curatalo on his recent re-election to his district office and also thanks Commission Mitzelfelt for his service to the Commission, his district, the County, SCAG and SANBAG. He wishes him well and hopes that he continues in public service. Commissioner McCallon also states that the City of Highland will be celebrating its 25th anniversary as a city and that the city has no debt, adequate reserves, a balanced budget, an economic uncertainty fund, and pays for everything they do up front.

Chairman Curatalo commends Commission McCallon on his update on the City of Highland.

Ms. McDonalds states that she signed the Highland incorporation documents and that it is her opinion that the citizens of Highland owe a deep debt of gratitude to Sam Racadio for his contribution to that incorporation and his fiscal guidance as its City Manager.

Commissioner Cox thanks Commissioner Mitzelfelt for his leadership on the Commission and for his help in the creation of the Helendale Community Service District.

Commissioner Smith gives his congratulations to Commissioner Mitzelfelt for his service and is glad to be able to consider him a friend and that it has been an honor to work with him.

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Commissioner Bagley congratulates Commissioner Mitzelfelt for his service and says that it has been a pleasure to serve with him on different levels and that he has been a great representative for the 1st District as a staff member and as an elected official.

Chairman Curatalo states that Commissioner Mitzelfelt has been principled, responsive, accessible and a good friend over the years and that it has been a pleasure to serve on the LAFCO Commission with him.

Chairman Curatalo states that it was a pleasure to have Ms. de Sousa at the hearing as legal counsel.

Chairman Curatalo requests that LAFCO staff draft a resolution of appreciation for Commissioner Derry, who is also leaving office, to be presented at the February 2013 Hearing. Ms. McDonald states that LAFCO staff will add the item to the agenda and will contact Commissioner Derry.

Chairman Curatalo wishes the Commission and staff happy holidays.

Commissioner Bagley asks if the representative from SBCERA will be addressing the Commission regarding the pension program. Ms. McDonald states that the item will be on the February agenda. Commissioner Mitzelfelt states that the presentation should include a summary of AB340. Ms. McDonald states that the issues are in the terminated vs. inactive funds and that in several of the LAFCO consolidations and dissolutions there were no such payment and the monies were converted into inactive funds and those inactive funds will come with huge price tags. She says that these and other issues will be discussed. Commissioner Bagley states that it is important for the Commission to take a leadership role in these issues.

COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 11:14 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman