

**LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN BERNARDINO**

215 North D Street, Suite 204  
San Bernardino, CA 92415-0490 • (909) 383-9900 • Fax (909) 383-9901  
E-MAIL: lafco@lafco.sbcounty.gov  
www.sbclafco.org

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**DATE:** JULY 9, 2008  
**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: AGENDA ITEM #11: LAFCO 3072 – Dissolution of the Victorville  
Recreation and Park District**

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**INITIATED BY:**

Council Resolution of the City of Victorville

**RECOMMENDATION:**

Staff recommends that the Commission approve LAFCO 3072 by taking the following actions:

1. Determine that LAFCO 3072 is exempt from environmental review, and direct the Clerk of the Commission to file a Notice of Exemption within five (5) days;
2. Approve LAFCO 3072, Dissolution of the Victorville Recreation and Park District, subject to the following terms and conditions:
  - a. The City of Victorville shall be designated as the successor agency to all rights, responsibilities, properties, equipment, contracts, assets and liabilities, obligations, and functions of the Victorville Recreation and Park District including the repayment obligations under the California Special Districts Association Finance Corporation Refunding Certificates of Participation (California Special District Finance Program) 1997 Series EE; and,
  - b. All property tax revenue attributable to the District prior to the calculations required by Section 98.6 of the Revenue and Taxation Code, including delinquent taxes and any and all other collections or assets of the District to be dissolved shall accrue and be transferred to the successor agency; and,

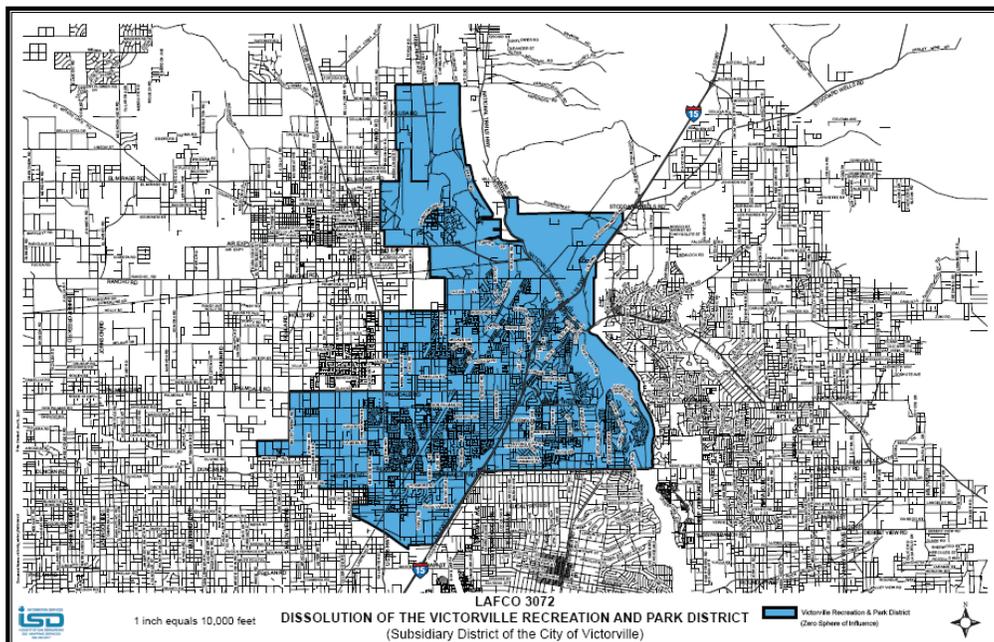
- c. All previously authorized charges, assessments, and/or taxes of the Victorville Recreation and Park District shall be continued by the City of Victorville for areas within the boundaries of the dissolved districts; and,
  - d. The Appropriation Limit of the City of Victorville shall be adjusted based on the amount of property tax revenues that will be shifted to the City as a result of this dissolution; and,
  - e. Pursuant to the provisions of Government Code Section 56844 (r) the City of Victorville shall continue to provide the current level and range of service now provided by the Victorville Recreation and Park District to those areas outside the corporate boundaries of the City, but within the current district boundaries and shall provide to the Commission, prior to issuance of the Certificate of Completion for LAFCO 3072, an out-of-agency contract so specifying these provisions; and,
  - f. Upon the effective date of this dissolution, any funds currently deposited for the benefit of the Victorville Recreation and Park District which has been impressed with a public trust, use or purpose shall be transferred to the City as the successor agency and the successor agency shall separately maintain such funds in accordance with the provision of Government Code Section 57462; and,
  - g. The City of Victorville shall defend, indemnify, and hold harmless the San Bernardino Local Agency Formation Commission in making these determinations; and,
  - h. In future fiscal years, the ratio of property tax revenue attributable to the City of Victorville shall be adjusted within the corporate boundaries so that the amount distributed to the City will include the amount that would have been distributed to the Victorville Recreation and Park District including that which was generated outside the City's boundaries; and,
  - i. Authorize the completion of these proceedings pursuant to Government Code Section 56854, without an election, unless at least 25% of the registered voters or 25% of the landowners within the District submit written protest to this proposal at the protest hearing.
3. Adopt LAFCO Resolution #3012 setting forth the Commission findings and determinations for the proposal.

**BACKGROUND:**

The Victorville Recreation and Park District (hereafter Victorville RPD) was originally formed on July 2, 1945 as a Board-governed park and recreation district (the County Board of Supervisors sat as the Board of Directors). It became a subsidiary District of the City of Victorville in 1978 (through processing of LAFCO 1677). At the time this was considered,

the District included approximately 31 square miles north of the community of Apple Valley and southerly of the Barstow Recreation and Park District (also a board-governed district) including the area known as “Bell Mountain”. The original approval of this reorganization included the requirement for detachment of the 31 square miles and the formation of an improvement zone by the County to continue the service. The hearings by the County Board of Supervisors indicated that the formation of the improvement zone was not financially feasible and the approval of the proposal was returned to LAFCO to amend its determination. In May of 1978, the Commission approved the revised reorganization which included the detachment and establishment of the Victorville RPD as a subsidiary district of the City of Victorville. The detachment was effective in May 1978. The City Council of the City of Victorville became the ex-officio Board of Directors for the Victorville RPD in August 1978 upon the completion of the establishment process.

On April 19, 2005, the City Council of the City of Victorville initiated the dissolution of its three subsidiary districts – Fire, Park and Recreation and Sanitary – by a single resolution, Resolution No. 05-70 and submitted the proposals for Commission consideration in August 2006. Review of the Plan for Service by LAFCO staff and interested and affected agencies required the submission of supplemental information and a revised Plan for Service prepared by the City of Victorville’s consultants and accepted in February 2008. Attachment #1 to the staff report provides an illustrative map of the area of the Victorville RPD proposed for dissolution and Attachment #2 provides a copy of the City’s initiating resolution, Plan for Service and Application Forms. The existing boundaries of the Victorville RPD are shown on the map below.



At the February 2007 Commission Hearing for the Municipal Service Review/Sphere of Influence Updates for the community of Victorville, the Commission determined to assign a zero sphere of influence to the Victorville RPD. This determination, set out in LAFCO Resolution No. 2956, a copy of which is included as Attachment #3 to this report, indicated

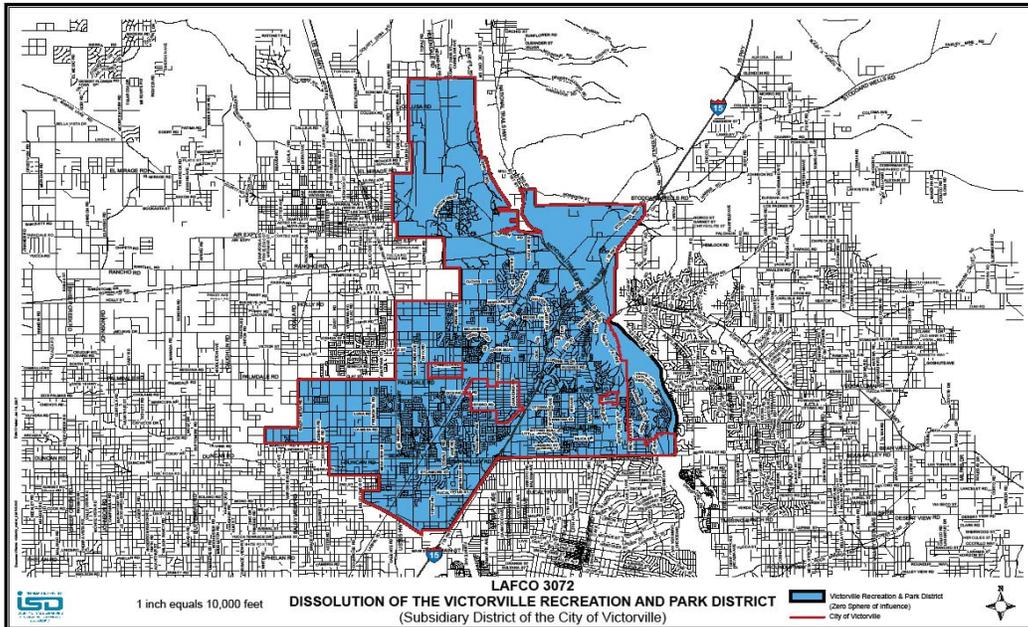
the Commission's position that since the District had not been operated as a separate entity by the City for the past thirty years, the simplest mechanism to correct these governance problems would be through dissolution and full assumption of the services and operations of the agency by the City.

In response to this determination of the Commission, the City Council, acting as the governing body of its then existing subsidiary districts, proposed their dissolution to address questions of independent operation and truly fold them into the administration of the City. This action will clarify and memorialize the current operations of the agency as a department of City government, resolving operational conflicts for a self-governed special district.

As with any review, the following materials will outline the staff's analysis of the four areas of consideration: boundaries, financial implications, service effects and the positions of the community and environmental consequences. These issues, along with other information, are outlined below.

### **BOUNDARIES:**

The Victorville RPD currently consists of 79.72 +/- square miles. Approximately 73.8 square miles of that territory are within the corporate boundaries of the City of Victorville. A map showing the existing boundaries of the City and District are shown below.



The territory within the District outside the corporate boundaries of the City of Victorville includes: the residential portion surrounding the lakes of the Spring Valley Lake community, and the three islands areas identified as Coad Road and Mt. View Acres. As a function of the conditions of approval, LAFCO staff is recommending that the City be required to continue the existing level of service to these areas following dissolution and

that this requirement be set forth in an out-of-agency contract to be presented to LAFCO prior to the issuance of the Certificate of Completion for this proposal. By doing so, any question in the future regarding service obligations can be clearly answered.

**FINANCIAL CONSIDERATIONS:**

The financial effect of the proposed dissolution would transfer all existing revenue, contracts, assets and liabilities of the Victorville RPD to the City of Victorville. As outlined in the Municipal Service Review for the Victorville RPD, the district has been operated as a City Department for about thirty years without separate accounting, auditing, or governance actions as required for a self-governed special district. The Plan for Service presented by the City outlines the following financial considerations:

1. Property Tax Transfers:

Upon the successful completion of the proposed dissolution, the property tax revenues generated within the boundaries of the existing District are to be transferred to the City. The County of San Bernardino adopted a resolution approving this process as a part of the property tax transfer negotiations required by Section 99 of the Revenue and Taxation Code, which was supported by the City of Victorville. The Plan for Service identifies that the property tax revenues generated for the district (approximately \$3,250,000 in Fiscal Year 07-08) funds only about 57% of the District's operations. The City General Fund currently contributes 28.4% of the revenues needed to operate the District representing \$1,608,643.

A review of the City's Comprehensive Annual Financial Report (CAFR) for the year ending June 30, 2006 does not identify property tax revenues associated with the Park District in its Statements, but does identify, on page 147, that the tax levy for the year was \$2,354,914 and collections were \$2,270,771. The property tax information from the Auditor/Controller-Recorder's office for the same period identified that the total property tax levy for the District would be \$2,850,340 (\$4,028,844 general levy minus \$1,178,504 in Redevelopment Agencies Increment).

Correspondence provided to LAFCO staff from the firm of Rosenow Spevacek Group Inc. (the firm which provided the information for pass-through agreements for the Victor Valley Economic Development Agency, a redevelopment agency), dated May 15, 2008, identified that the pass-through required from VVEDA for the Victorville RPD, as well as the other subsidiary districts, was provided directly to the City of Victorville as a lump sum. This furthers the staff position that the subsidiary districts are not operated as special districts as defined in the Municipal Service Review. City staff has provided an outline of the pass-through amounts that should have been credited to the Victorville RPD, as follows:

Fiscal Year 2006-07	\$901,820
Fiscal Year 2005-06	\$661,150
Fiscal Year 2004-05	\$393,653

This total is \$1,956,623 over the past three years; while the Victor Valley Economic Development Agency has been in existence since 1993. No information was received regarding pass-through amounts to the District from the City operated redevelopment agencies.

2. Staffing:

The Victorville RPD does not directly employ its own staff; it is managed and staffed by City of Victorville employees assigned to the Community Services Department. Page 12 of the Plan for Service identifies the City staffing of the District included 40.79 Full Time Equivalent (FTE) positions under the identification of Community Services Department. No change will occur through successful completion of the dissolution.

3. Appropriation Limit:

Under normal circumstance, the Commission would condition the approval of the dissolution of the district upon the transfer of the existing appropriation limit to the successor agency. However, in this case, there is no appropriation limit established for the Victorville RPD by its governing body even though it is required by Article XIII B of the State Constitution. The City of Victorville has requested that the estimated property tax revenues for FY 07-08, \$3,250,000, be added to the City's existing appropriation limit as a condition of approval.

4. Budgetary Information:

The City of Victorville Comprehensive Annual Financial Report (CAFR) for the 2006-07 Fiscal Year identifies, on page 100, that the Parks and Recreation operation (assumed to be all functions associated with the Park and Recreation District) had revenues of \$5,004,357 and expenditures of \$5,653,078, with a net deficit of \$648,721. During the fiscal year the City transferred in revenues of \$1,235,352 and transferred out \$25,452, for a net contribution of \$1,209,900. This provided for a positive ending balance for the fiscal year of \$561,179, which, combined with the fund balance from the beginning of the year, provided a \$1,116,642 fund balance at the end of the fiscal year.

As a part of discussions related to another subsidiary district, Mr. John Sullivan, Director of Finance for the City of Victorville, indicated in a City Council Agenda Item (copy included as a part of Attachment #2) that over the past 30 years the City has transferred \$12,739,367 to the district to supplement its operations. The tenor of the item appeared to LAFCO staff to infer that this transfer was an unintended consequence of the subsidiary district establishment. However, LAFCO staff's response is that in 1977, when the City initiated the establishment of the Park District as a subsidiary district, it was the expressed desire of the City to provide for a desired level of service which was to be supported by the then existing tax rate of the District augmented by City revenues. Nothing has changed in the ensuing 30 years.

The chart which follows illustrates the District’s expenditures and revenues taken from the pages of the City’s CAFR:

VICTORVILLE RECREATION AND PARK DISTRICT IDENTIFIED AS PARKS AND RECREATION FUND YEAR ENDED JUNE 30, 2006			
	FINAL BUDGET	ACTUAL	VARIANCE WITH FINAL BUDGET POSITIVE (NEGATIVE)
<b>EXPENDITURES:</b>			
Public Works	0	\$22,072	(\$22,072)
Parks and Recreation	\$5,045,949	\$5,632,006	(\$585,057)
Debt Service			
<b>TOTALS</b>	<b>\$5,045,949</b>	<b>\$5,653,-78</b>	<b>(\$607,129)</b>
<b>REVENUES:</b>			
Property Taxes	\$3,250,250	\$4,126,515	\$876,265
Charges for Service	\$648,930	\$787,898	\$128,968
Fines and Forfeitures	0	\$70	\$70
Investment Income	0	\$11,281	\$11,281
Other	\$65,446	\$78,593	\$13,147
<b>Total</b>	<b>\$3,964,626</b>	<b>\$5,004,357</b>	<b>\$1,039,731</b>
Excess (deficiency) of revenues over (under) expenditures	(\$1,081,323)	(\$648,721)	\$432,602
<b>OTHER FINANCING SOURCES</b>			
Transfers In (General Fund)	\$1,087,864	\$1,235,352	\$147,488
Transfers Out		(25,452)	(\$25,452)
<b>TOTAL FINANCING</b>	<b>\$1,087,864</b>	<b>\$1,209,900</b>	<b>\$122,036</b>
Net Change in Fund Balance	\$6,541	\$561,179	\$554,638
Fund Balance at beginning of Year	\$555,463	\$555,463	
Fund Balance at End of Year	\$562,004	\$1,116,642	\$554,638

Not identified in the Plan for Service submitted by the City was a discussion of the existing debt for the Victorville RPD. At the present time, the Victorville RPD has an outstanding Certificate of Participation (COP) with the California Special Districts Association for the refunding of its 1989 debt for development of a community center (the documents received do not identify what community center). At the request of LAFCO staff, the City of Victorville requested a legal opinion that this debt financing can be transferred to the City, receiving a response from Fulbright and Jaworski LLP dated June 12, 2008 (included as a part of Attachment #5) that the debt can be transferred and that the dissolution will not impact the bond holders. In addition, LAFCO staff has received the concurrence of the California Special Districts Association Finance Corporation that transfer of the debt to the City of Victorville can occur. A condition of approval has been included in the proposed terms and conditions that outlines the transfer of responsibilities for this debt to the City of Victorville.

In conclusion, LAFCO staff concurs with the position of the City of Victorville that the approval of the dissolution of the Victorville RPD will clarify the responsibilities for this agency. In addition, the dissolution will resolve the concerns of LAFCO that this subsidiary district has not been operated as a special district for more than 30 years as outlined in the Municipal Service Review for this agency.

**SERVICE CONSIDERATIONS:**

The City of Victorville has submitted a “plan for services” as required by law which states that the City can demonstrate that the range and level of service currently available will be maintained. As noted earlier, this plan is included as a part of Attachment #2 to this report.

Within this plan, the City has acknowledged that it has operated the Victorville RPD as a City department for approximately 30 years. Therefore, following successful completion of the dissolution, there will be no change in the provision of this service, nor augmentation or diminution of the range and level of park service currently provided. The plan for service is not limited to the City’s corporate boundaries, but includes the entirety of the district. LAFCO staff is proposing as a condition of approval that the continuation of service to the unincorporated areas currently a part of the Victorville RPD be memorialized in an out-of-agency contract. Such a contract would preclude any service confusion in the future until such time as these areas are annexed to the City.

One service question raised by LAFCO staff relates to the imposition of development impact fees for park purposes. As developments have occurred within the unincorporated portions of the District, they have not participated in the funding mechanisms for new park development as required for in-City developments. In the staff view, this creates a situation of haves and have-nots. It would appear to staff that consideration should be given to the imposition of development impact fees or Quimby Act fees for park purposes so that the funding of future park facilities are raised by all of those who will benefit. The consideration of this would be undertaken through a request being made by the successor agency, the City, to the County Board of Supervisors for its consideration.

LAFCO staff supports the dissolution of the Victorville RPD in that the action will make more transparent the delivery of this service through the City of Victorville, as well as provide for clarification of accountability for decisions on its operation, since it has been operated as a city department for the past 30 years.

**RESPONSE TO THIS PROPOSAL:**

LAFCO staff has circulated this proposal for review and comment by the affected and interested agencies. To date, no response has been received either in support or opposition. Staff’s reaction to this lack of response is that most people currently served by the Victorville RPD assume it to be a City department – its park facilities show identification as being owned by the City of Victorville – and it does not appear on any tax bill as a separate legal entity.

**ENVIRONMENTAL CONSIDERATIONS:**

The Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed this proposal and has indicated that it is his recommendation that this dissolution is statutorily exempt from the California Environmental Quality Act (CEQA). This determination is based on the finding that the Commission's approval of the action would not result in an alteration of the physical environment and would not change the area in which the service is provided; therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b) (3). A copy of Mr. Dodson's report is included for the Commission's review as Attachment #6.

**FINDINGS:**

1. The area in question is legally inhabited, containing 36,175 registered voters as of November 15, 2007. 34,400 of those voters reside within the boundaries of the City of Victorville.
2. The County Assessor has determined that the value of land and improvements within the boundaries of the Victorville RPD was \$9,834,358,211 as of November 15, 2007 (\$3,086,017,230 – land; \$6,748,340,981 – improvements).
3. The proposal is consistent with the zero sphere of influence determination made by the Commission on April 18, 2007 through action taken in regard to LAFCO 3040.
4. Notice of the original May hearing was provided through publication of a legal ad in The Sun, and the Victor Valley Daily Press, newspapers of general circulation in the area. As required by State law, individual notification was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.
5. In compliance with Commission policy and Government Code Section 56157, the notice of this hearing has been provided by publication of an 1/8<sup>th</sup> page legal ad in The Sun, a newspaper of general circulation, and the Daily Press, a local newspaper. To date, no opposition to this proposal has been received.
6. This proposal does not conflict with the City of Victorville's General Plan for areas within its boundaries and sphere of influence.
7. As the CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed LAFCO 3072. Mr. Dodson has indicated that his review recommends that the dissolution is statutorily exempt from the California Environmental Quality Act (CEQA). This recommendation is based on the finding that the Commission's approval of the action would not result in an alteration of the physical environment and would not change the area in which the service is provided; therefore, the proposal is exempt from the requirements of CEQA, as outlined in the State CEQA Guidelines, Section 15061 (b) (3). A copy of Mr. Dodson's report is included for the Commission's review as Attachment #6.

8. The area within the Victorville Recreation and Park District is also served by the following local agencies:

- County of San Bernardino
- City of Victorville
- Victorville City Lighting District
- Victorville Sanitary District
- Victorville Fire Protection District
- Victorville Water District
- Mojave Water Agency
- Mojave Desert Resource Conservation District
- San Bernardino County Fire Protection District and its North Desert Service Zone (formerly County Service Area 38 and its Improvement Zones)
- County Service Area 70
- County Service Area 64 (Spring Valley Lake – multi-function)
- County Service Area 60 (Apple Valley Airport)
- County Service Area 42 (Oro Grande – multiple services)

The only agencies directly affected by this proposal are the City of Victorville and the Victorville Recreation and Park District. None of the other agencies will be affected by this proposal as they are regional in nature.

9. The City of Victorville has submitted a plan for services addressing the potential for providing recreation and park services through the City as a department rather than through a separate special district. This plan is attached for Commission review, and it indicates that the range and level of such services can be maintained following dissolution. It is recommended that the Commission impose the requirement that the City of Victorville submit an out-of-agency service contract for continued service to the unincorporated area of the District following dissolution to clarify service responsibilities.
10. The area in question can and has benefited from the provision of recreation and park services through the City of Victorville. The proposal, as presented, will clarify governance for this service and provide for transparency in the operations, as shown in the Plan for Services.
11. This proposal and its anticipated effects conform with adopted Commission policies and directives of state law that promote the simplification of the government.
12. Pursuant to the provision of Government Code Section 56668(o), the dissolution of the district to reflect its current operation as a City Department will not result in the unfair treatment of any person, based upon race, culture or income.
13. The County Board of Supervisors has successfully concluded the property tax negotiations required by Section 99 of the Revenue and Taxation Code.
14. The map of the proposed dissolution is not required to meet state standards.

**CONCLUSION:**

One of the primary goals of the Local Agency Formation Commission as set forth by the legislature is to promote the simplification of government to the extent possible. This includes the consolidation of services under one government, as outlined in the opening section of the Cortese-Knox-Hertzberg Act, “a single governmental agency, rather than several limited purpose agencies, is in many cases better able to assess and be accountable for community service needs and financial resources, and, therefore, is the best mechanism for establishing community service priorities.”

For the past 30 years the City of Victorville has operated its subsidiary Victorville Recreation and Park District as a City Department, without separate appropriation limit, without separate budget, and without separate actions on Council agenda. Therefore, the action proposed to dissolve the district reflects its actual operation and allows for a more transparent operation as a city department without the pretext of identification as a self-governed special district.

It has been troubling to LAFCO staff that the operation of the District has not been reflective of its status as an a self-governed special district, one whose ex-officio Board of Directors has been designated to be the City Council of the City of Victorville. This concern, as outlined in the Municipal Service Review, is that this district has operated without a separate budget and without an appropriation limit for longer than anyone on the current staff can remember. These aspects of a lack of a separate government are troubling on the larger scale of accountability to the constituents of the agency.

In the end, the dissolution of this agency is a good government remedy to the current situation: it promotes the recognition of the operation of the service through the auspices of the City of Victorville as a department as it has operated for 30 years, it promotes a more effective balance for this community service and requires that the City weigh and balance these service needs against the financial resources available, and it promotes a more transparent operation of government through the ease of understanding that it is a City Department, with City employees performing the services. For all these reasons, and those outlined in other portions of this report, staff recommends approval of LAFCO 3072.

KRM/

Attachments:

1. Map of the District and City Boundaries
2. City Resolution No.05-70, Plan for Service and Application Forms from the City of Victorville; Updated Responses from City of Victorville; Letter Dated May 15, 2008 Related to VVEDA Pass Through
3. LAFCO Resolution No. 2956 for the Municipal Service Review/Sphere of Influence Update for the Victorville Recreation and Park District
4. Excerpts from LAFCO 1677 Related to the Establishment of the Victorville RPD as a Subsidiary District

5. Response from City of Victorville Bond Counsel Dated June 12, 2008 and Copy of Certificate of Participation
6. Environmental Review from Tom Dodson and Associates
7. Draft LAFCO Resolution #3012