MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 16, 2007

REGULAR MEETING **9:00 A.M.** **May 16, 2007**

PRESENT:

COMMISSIONERS:

Bob Colven, Chairman
Kimberly Cox
James V. Curatalo, Alternate
Dennis Hansberger, Vice Chairman
Larry McCallon
Brad Mitzelfelt, Alternate
Mark Nuaimi
Richard P. Pearson
A.R. "Tony Sedano, Alternate
Diane Williams

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark H. Alsop, Legal Counsel
Samuel Martinez, LAFCO Analyst
Michael Tuerpe, LAFCO Analyst
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS: **Paul Biane**

REGULAR SESSION – CALL TO ORDER – 9:10 A.M.

In the absence of Chairman Biane, Vice Chairman Colven calls the regular session of the Local Agency Formation Commission to order and he leads the flag salute.

Executive Officer Kathleen Rollings-McDonald requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than $250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

SWEAR IN REGULAR BOARD OF SUPERVISORS MEMBER OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Regular Board of Supervisors Member Dennis Hansberger, whose term of office expires in May, 2011.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN – COMMISSIONER COLVEN ELECTED CHAIRMAN; COMMISSIONER HANSBERGER ELECTED VICE CHAIRMAN

Executive Officer Kathleen Rollings-McDonald presents the staff report for the election of the Chairman and Vice Chairman, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says that any regular voting member of the Commission may be appointed to these positions. She notes that Chairman Biane and Vice Chairman Colven are completing their second full terms and are not eligible for reappointment to their positions under Commission policies.

Ms. McDonald opens the nominations for Chairman. Commissioner Cox nominates Commissioner Colven, seconded by Commissioner Pearson. Ms. McDonald calls for further nominations. There being none, the nominations are closed on motion of Commissioner Pearson. Ms. McDonald calls for a voice vote on the nomination of Commissioner Colven as Chairman and he is unanimously elected.

Chairman Colven opens the nominations for Vice Chairman. Commissioner McCallon nominates Commissioner Hansberger, seconded by Commissioner Nuaimi. Chairman Colven calls for further nominations. There being none, the nominations are closed on motion of Commissioner Cox. Chairman Colven calls for a voice vote on the nomination of Commissioner Hansberger as Vice Chairman and he is unanimously elected.

APPROVAL OF MINUTES FOR REGULAR MEETING OF APRIL 18, 2007

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. Chairman Colven states that the consent calendar consists of:

(1) approval of the Executive Officer's expense report;

(2) approval of payments as reconciled for the month of April 2007 and noting cash receipts; and

(3) consideration of LAFCO SC#308-City of Redlands OSC No. 06-29 for Water and Sewer Service

A Travel Claim and Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments and LAFCO SC#308, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by reference herein. Notice of these consent items has been advertised as required by law through publication in The Sun, a newspaper of general circulation. The Notice of Hearing for the consideration of LAFCO SC#308 was also advertised in the Redlands Daily Facts, a newspaper of general circulation in the area. Individual mailed notice of the proposals was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice and landowners and registered voters within and surrounding the LAFCO SC#308 service contract area pursuant to State law and Commission policy.

Chairman Colven asks if there is anyone present wishing to discuss any of the consent calendar items. There is no one.

Commissioner Cox moves approval of the staff recommendations for the consent calendar items, seconded by Commissioner Nuaimi. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

(It is noted that Commissioner Mitzelfelt arrives at 9:14 a.m.)

Commissioner Nuaimi announces that he will abstain from voting on Items 6, 7 and 8. He says he has no conflict but has been abstaining on the Fontana Island proposals and will continue to do so. Commissioner Mitzelfelt announces that he will abstain from voting on Item 6. Commissioners Nuaimi and Mitzelfelt leave the hearing at 9:15 a.m.)

CONTINUED ITEMS:

MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 16, 2007

CONTINUED FROM NOVEMBER 15, 2006 – CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048A-1; AND (2) LAFCO 3048A-1 – CITY OF FONTANA ANNEXATION NO. 168 (ISLAND 4), AS MODIFIED – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing continued from November 15, 2006, to consider annexation to the City of Fontana (hereinafter "the City") of Island 4, encompassing approximately 110+/- acres generally located north of Valley Boulevard, east of existing City boundaries defined by a combination of parcel lines and Palmetto Avenue, south of existing City boundaries along San Bernardino Avenue, and west of Alder Avenue, within the City's eastern sphere of influence. Notice of the original hearing on August 16, 2006, on the four island reorganization, was advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area, and individual mailed notice of that hearing was provided to landowners and registered voters within and surrounding the area pursuant to State law and Commission policy. Individual notice has been provided for the original and continued hearings to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the first Fontana island in the Bloomington community to be considered today is Island 4. She says that the three Bloomington islands that have been before the Commission for a number of months are shown on the map on the overhead display. She discusses the background of the three proposals, as outlined in the staff report, stating that these three proposals were initially initiated by the City in December 2005 in an application to annex 32 separate islands to the City under the island annexation provisions. (As noted in the staff report, upon receipt of the application, LAFCO staff divided the proposal into two separate applications—LAFCO 3048 for 28 of the islands and LAFCO 3048A for the four islands associated with the community of Bloomington (Islands 4, 5, 26 and 27). The detachment from the Bloomington Recreation and Park District (hereinafter "Bloomington RPD") was included by LAFCO staff for Islands 4, 26 and 27 as a function of the reorganization.) Ms. McDonald explains that LAFCO 3048A was originally considered on August 16, 2006, and was continued to the November 15 hearing to allow the Bloomington community to circulate petitions for the incorporation of Bloomington. She says that on November 15, Island 27 was approved and the consideration of Islands 4, 5 and 26 was continued to today's hearing to allow the Bloomington community to submit a full and complete incorporation application, including required fees and deposits, by the end of February 2007. She reports that, as the Commission is aware, the Bloomington Incorporation Commission did not achieve that goal so the three islands are now divided individually for consideration, with Island 4 identified as LAFCO 3048A-1.

Ms. McDonald states that staff has reviewed with the Commission on a number of occasions the factors of consideration for an island annexation. She says that one factor in this consideration was the relationship of this area to the Bloomington RPD and the concern expressed by the County Special Districts Department staff regarding the continued viability of the District if detachments of revenue-producing territory continued. She points out that Attachment 3 to the staff report outlines the City's position that it will accept the retention of this area within the District so that it can retain its funding stream that is critical to its sustainability. She says the aerial view of the area shown on the overhead display shows that most of the territory under consideration is developed. Ms. McDonald discusses the service issues, as outlined in the staff report, noting an important issue related to sewer service. She reports that this area is not a part of the Inland Empire Utilities Agency (hereinafter "IEUA") and its Improvement District "C", and she says that the parcels within this area connecting to the City sewer facilities will pay a surcharge. She notes that there are irrevocable agreements to annex for out-of-agency service within this island and she says that the property owners' monthly rate will be reduced to in-City charges.

Ms. McDonald states that, as outlined in prior staff reports related to consideration of this area, it is staff's position that LAFCO 3048A-1 is a ministerial action. She says that Island 4 has been evaluated against the criteria identified in Government Code Section 56375.3 and Commission policies, which are outlined in the staff report, and staff believes that the Commission can clearly make those findings and determinations. She reports that the area is 110+/- acres, within the 150-acre threshold; it is substantially

surrounded, being 63% surrounded by existing City boundaries, and is within the City's sphere of influence; the area is substantially developed or developing and there are public improvements in the area; it does not contain prime agricultural land; the area will benefit from annexation and numerous parcels within the island are currently receiving benefits from the City through the receipt of sewer service provided through out-of-agency sewer agreements; the City has conducted an extensive outreach program; and the area is not a part of a County Redevelopment Area. Ms. McDonald states that it is staff's position that the Commission has no discretion in its review of this proposal and is, therefore, obligated to approve it, and to approve it without the ability of protest from landowners and registered voters within the area.

Ms. McDonald states that the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption for this proposal and direct the Clerk to file a Notice of Exemption within five (5) days of this action; (2) modify LAFCO 3048A-1 by dividing it into three individual annexation proposals, with Island 4 to be known as LAFCO 3048A-1, and further modified to exclude detachment from Bloomington RPD, as requested by the City of Fontana; (3) approve LAFCO 3048A-1 as modified, as an island annexation, as defined in Government Code Section 56375.3, with those terms and conditions listed in the staff report, including that the City's 5% Utility Users Tax on commercial properties will not be extended to the annexation area and that the responsibility for all streetlights currently the responsibility of County Service Area SL-1 will be transferred to the City; (4) waive the protest proceedings, as required by Government Code Section 56375.3; and (5) adopt LAFCO Resolution No. 2964 setting forth the Commission's findings and determinations regarding this proposal.

Commissioner Cox asks what the charge is for those parcels that will be required to pay the IEUA surcharge. Ms. McDonald responds that she does not know what the charge is but she says it is not large.

Chairman Colven asks whether the City will be prohibited from extending the Utility Users Tax in perpetuity. Ms. McDonald responds that it cannot be extended until an election is held to consider that tax.

Chairman Colven asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: Nuaimi (Williams voting in his stead) and Mitzelfelt. Absent: Biane.

CONTINUED FROM NOVEMBER 15, 2006 – CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048A-2; AND (2) LAFCO 3048A-2 – CITY OF FONTANA ANNEXATION NO. 168 (ISLAND 5) AS MODIFIED - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing continued from November 15, 2006, to consider annexation to the City of Fontana (hereinafter "the City") of Island 5, encompassing approximately 100+/- acres generally located north of Randall Avenue, east of Alder Avenue (existing City of Fontana boundary), south of parcel lines (existing City of Fontana boundary) and west of Maple Avenue (existing City of Rialto boundary), within the City's eastern sphere of influence. Notice of the original hearing on August 16, 2006, on the four island reorganization, was advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area, and individual mailed notice of that hearing was provided to landowners and registered voters within and surrounding the area pursuant to State law and Commission policy. Individual notice has been provided for the original and continued hearings to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. The background of this proposal is outlined in the staff report and was discussed during the consideration of Island 4. Ms. McDonald shows a map of the area on the overhead display. She discusses the service issues as outlined in the staff report. She points out that this island is a part of the Inland Empire Utilities Agency and, therefore, does not have the same issue related to service delivery as Islands 4 and 26. She reports that there are five irrevocable agreements to annex for out-of-agency sewer service within Island 5 and says those parcels will receive a $15 per month rate reduction for sewer service. She reports that this area is not a part of the Bloomington Recreation and Park District, so there is no concern about the on-going retention of that District.

(It is noted that Commissioner Mitzelfelt returns to the hearing at 9:25 a.m.)

Ms. McDonald states that the factors of consideration required for an island annexation are outlined in the staff report. She says that, as outlined in prior staff reports related to consideration of this area, it is staff's position that LAFCO 3048A-2 is a ministerial action. She says that Island 5 has been evaluated against the criteria identified in Government Code Section 56375.3 and Commission policies, which are outlined in the staff report, and that staff believes that the Commission can clearly make those findings and determinations. She reports that the area is 100+/- acres, within the 150-acre threshold; it is substantially surrounded, being 62% surrounded by a combination of the existing City of Fontana and City of Rialto boundaries, and is within the City's sphere of influence; the area is substantially developed or developing and there are public improvements in the area; it does not contain prime agricultural land; the area will benefit from annexation and numerous parcels within the island are currently receiving benefits from the City through the receipt of sewer service provided through out-of-agency sewer agreements; the City has conducted an extensive outreach program; and the area is not a part of a County Redevelopment Area. Ms. McDonald states that it is staff's position that the Commission has no discretion in its review of this proposal and is, therefore, obligated to approve it, and to approve it without the ability of protest from landowners and registered voters within the area.

Ms. McDonald states that the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption for this proposal and direct the Clerk to file a Notice of Exemption within five (5) days of this action; (2) modify LAFCO 3048A-1 by dividing it into three individual annexation proposals, with Island 5 to be known as LAFCO 3048A-2; (3) approve LAFCO 3048A-2 as modified, as an island annexation, as defined in Government Code Section 56375.3, with those terms and conditions listed in the staff report, including that the City's 5% Utility Users Tax on commercial properties will not be extended to the annexation area and that the responsibility for all streetlights currently the responsibility of County Service Area SL-1 will be transferred to the City; (4) waive the protest proceedings, as required by Government Code Section 56375.3; and (5) adopt LAFCO Resolution No. 2965 setting forth the Commission's findings and determinations regarding this proposal.

Chairman Colven asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner McCallon moves approval of staff recommendation, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: Nuaimi (Williams voting in his stead). Absent: Biane (Mitzelfelt voting in his stead).

CONTINUED FROM NOVEMBER 15, 2006 – CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048A-3; AND (2) LAFCO 3048A-3 – CITY OF FONTANA ANNEXATION NO. 168 (ISLAND 26) AS MODIFIED - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing continued from November 15, 2006, to consider annexation to the City of Fontana (hereinafter "the City") of Island 26, encompassing approximately 58+/- acres generally located south of Valley Boulevard (a portion of which is the City of Fontana boundary), west of Alder

Avenue, north of the Union Pacific Railroad right-of-way (a portion of which is the City of Fontana boundary) and east of parcel lines (existing City of Fontana boundary), within the City's eastern sphere of influence. Notice of the original hearing on August 16, 2006, on the four island reorganization, was advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area, and individual mailed notice of that hearing was provided to landowners and registered voters within and surrounding the area pursuant to State law and Commission policy. Individual notice has been provided for the original and continued hearings to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. The background of this proposal is outlined in the staff report and was discussed during the consideration of Island 4.

Ms. McDonald shows a map of the island area and its relationship to the Bloomington RPD. She discusses the concern expressed by the County Special Districts Department staff regarding the continued viability of the District if detachments of revenue-producing territory continue. She points out that Attachment 3 to the staff report outlines the City's position that it will accept the continued overlay of this area by the District so that it can retain its funding stream. Ms. McDonald discusses the service issues, as outlined in the staff report, noting that this island area, like Island 4, is not a part of the Inland Empire Utilities Agency (hereinafter "IEUA") and its Improvement District "C"; and she says that the parcels within this area connecting to the City sewer facilities will also pay the IEUA's surcharge. She notes that there are irrevocable agreements to annex for out-of-agency service within this island and she says that the property owners' monthly rate will be reduced to in-City charges.

Ms. McDonald states that, as outlined in prior staff reports related to consideration of this area, it is staff's position that LAFCO 3048A-3 is a ministerial action. She says that Island 26 has been evaluated against the criteria identified in Government Code Section 56375.3 and Commission policies, which are outlined in the staff report, and staff believes that the Commission can clearly make those findings and determinations. She reports that the area is 58+/- acres, within the 150-acre threshold; it is substantially surrounded, being 58% surrounded by existing City boundaries, and is within the City's sphere of influence; the area is substantially developed or developing and there are public improvements in the area; it does not contain prime agricultural land; the area will benefit from annexation and numerous parcels within the island are currently receiving benefits from the City through the receipt of sewer service provided through out-of-agency sewer agreements; the City has conducted an extensive outreach program; and the area is not a part of a County Redevelopment Area. Ms. McDonald states that it is staff's position that the Commission has no discretion in its review of this proposal and is, therefore, obligated to approve it, and to approve it without the ability of protest from landowners and registered voters within the area.

Ms. McDonald states that the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption for this proposal and direct the Clerk to file a Notice of Exemption within five (5) days of this action; (2) modify LAFCO 3048A-1 by dividing it into three individual annexation proposals, with Island 26 to be known as LAFCO 3048A-3, and further modified to exclude detachment from Bloomington RPD, as requested by the City of Fontana; (3) approve LAFCO 3048A-3 as modified, as an island annexation, as defined in Government Code Section 56375.3, with those terms and conditions listed in the staff report, including that the City's 5% Utility Users Tax on commercial properties will not be extended to the annexation area and that the responsibility for all streetlights currently the responsibility of County Service Area SL-1 will be transferred to the City; (4) waive the protest proceedings, as required by Government Code Section 56375.3; and (5) adopt LAFCO Resolution No. 2966 setting forth the Commission's findings and determinations regarding this proposal.

Chairman Colven asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox,

Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: Nuaimi (Williams voting in his stead). Absent: Biane (Mitzelfelt voting in his stead).

Ms. McDonald thanks the City staff, stating they have always been very responsive while going through this process. Chairman Colven notes the City has been very gracious about holding these annexations in abeyance to accommodate the Bloomington community.

(It is noted that Commissioner Nuaimi returns to the hearing at 9:31 a.m.)

DISCUSSION ITEMS

REVIEW AND ADOPTION OF RESOLUTION NO. 2959 FOR LAFCO 2991 AS MODIFIED – REORGANIZATION TO INCLUDE CONSOLIDATION OF BALDY MESA WATER DISTRICT AND VICTOR VALLEY WATER DISTRICT, TO BE KNOWN AS VICTORVILLE WATER DISTRICT AND ESTABLISHED AS SUBSIDIARY DISTRICT OF CITY OF VICTORVILLE, ANNEXATIONS TO VICTORVILLE WATER DISTRICT AND FORMATION OF IMPROVEMENT DISTRICT NO. 1 (EXISTING VICTOR VALLEY WATER DISTRICT BOUNDARIES) AND IMPROVEMENT DISTRICT NO. 2 (EXISTING BALDY MESA WATER DISTRICT BOUNDARIES) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider adoption of Resolution No. 2959 approving LAFCO 2991--Reorganization to Include Consolidation of the Baldy Mesa Water District and Victor Valley Water District, with the Consolidated District to be Known as the Victorville Water District, Establishment of Victorville Water District as a Subsidiary District of the City of Victorville, Formation of Improvement District No. 1 (Victor Valley Water District Boundaries) and Improvement District No. 2 (Baldy Mesa Water District Boundaries) and Annexations to Victorville Water District and Improvement District No. 1, as Modified. Notice of this hearing was advertised as required by law through publication in The Sun and the Victor Valley Daily Press, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that at the March 21, 2007 hearing, the Commission indicated its intent to approve a modified LAFCO 2991 and required that specific details related to the proposal, as outlined in the staff report, be provided prior to further consideration. She says that the Commission has been presented with those documents required from that hearing. She reports that Resolution No. 2959 was provided to the Commission, the City, and the two Water Districts and she says the Terms and Conditions in that resolution were modified to address the consolidation, with establishment of the consolidated District as a subsidiary district of the City, and the transfer of assets. She notes that today the Commission has been presented with a copy of a memorandum to the Board of Directors of the Baldy Mesa Water District (hereinafter "BMWD") related to the adoption of a revised appropriation limit. She says that draft Resolution No. 2959 reflects the 2006/07 appropriation limit and must be corrected to reflect the 2007/08 amount of $1,742,694. She reports that the required agreement among the Victor Valley Water District (hereinafter "VVWD"), the BMWD and the City Council of the City of Victorville (hereinafter "the City") outlining the transfer of liabilities, assets, contracts and obligations, is attached to the staff report as Attachment No. 2 and that Attachment No. 3 is the required letter from the BMWD's bond counsel indicating there would be no impairment to bondholders through the transfer of liabilities through the consolidation. Ms. McDonald reports that Attachment No. 2 also includes the "Employee Transition Plan" that the City was required to submit detailing the transition of existing employees from the two Districts, with reassignment to either the new Victorville Water District or other comparable jobs in the City. She says this Plan was reviewed with the staffs of the BMWD, VVWD and LAFCO. She reports that BMWD has approved the Plan, with the deletion of Attachment 2, which is an organization chart of the Victorville Water District. She reports that VVWD's position is that the Plan is incomplete and that additional information is required. Ms. McDonald explains that of importance to LAFCO staff was the issue of the existing VVWD employees who have

special retirement benefits, different than those employees hired after August 2003, which includes full payment of the costs for coverage of the employee and spouse under health, dental and life insurance benefits. She reports that the VVWD has an existing liability to fund the medical payments for those employees and she says that liability will be succeeded to by the Victorville Water District.

Ms. McDonald reports that on May 4 a letter was received from the VVWD, a copy of which is included as a part of Attachment No. 2 (c), outlining its concerns on the Employee Transition Plan submitted by the City. She says that the four issues that staff felt required a response are identified in the staff report. Regarding the first issue—Prior Employee Transition Plans and Uncertainty, she says LAFCO staff understands that representatives from the City and the two Water Districts worked together to derive the required Plan. She says staff does not believe that the prior plans are of concern since they were submitted prior to the Commission's action identifying that a completed Transition Plan be provided. She discusses the second issue—Status of Current Employees as Employees of the Successor Subsidiary District, and says the VVWD is concerned regarding the vacillation as to where placement of its employees would be. She says the City outlined at the March 21 hearing, and in other discussions during this long process, that its position was that employees would become employees of the City, with direct assignment to the Victorville Water District or transfer to existing City positions. She says staff believes that concern has been discussed and does not agree with the conclusions drawn by VVWD. Regarding the third issue—Draft Plan is Vague and Fails to Protect Current Employees Salaries, Benefits and Rights, Ms. McDonald says that the City and parties participating in the Employee Transition Plan were required to secure the transfer of employees to positions within the consolidated District through the plan of City employment, with comparable salaries and benefits. She explains that the problems identified in the VVWD's response are issues that would have been true if the staff's recommendation had been approved on March 21, so staff believes this concern has been addressed through the materials that have been presented to the Commission. Regarding the fourth statement that "The Plan does not address current retirees", Ms. McDonald states that is correct. She says that through the adoption of the revised and restated Resolution No. 07-037, Section 6 requires that the City maintain the existing retirees' benefits. She explains that the benefit is a dollar amount and is a subsidy toward the purchase of specific health and dental insurance; that LAFCO can only require that the City maintain the subsidy towards payment of that benefit; and that is what the City has done. She notes that there is a correction in the quotation in paragraph d on page 4 of the staff report and says that the word "subsidiaries" in the third line of the quotation should be "subsidies".

Ms. McDonald says staff believes that the Commission can finalize the consolidation proposal through adoption of Resolution No. 2959, which will start a protest process that will include a thirty-day reconsideration period required by law. She notes that as a Term and Condition, there will be a thirty-day protest period for the solicitation of written protests from landowners and voters within the two consolidating Districts.

Ms. McDonald says that Attachment No. 4 to the staff report is a letter dated April 23 (revised May 1, 2007) submitted by the Board of Directors of the VVWD responding to statements made to the Commission at the March 21 hearing by representatives of the City regarding the VVWD's operations. She states that Attachment No. 5 to the staff report is the City's response to VVWD's response. She says that these letters are part of the record and that staff is not providing a response to either letter. She says that the Commission has been presented today with a letter from Rick Krug objecting to the consolidation of the two Districts and the establishment of the consolidated District as a subsidiary district of the City and he outlines the difficulties to successfully protest such an occurrence. She says that staff believes that a thirty-day protest period is fair, noting that the law specifies that the Commission can establish a protest period between fifteen and sixty days. A copy of Mr. Krug's letter is on file in the LAFCO office and is made a part of the record by its reference herein.

Ms. McDonald states that the staff recommendation is that the Commission approve LAFCO 2991 as modified and adopt Resolution No. 2959 reflecting the Commission's determinations, terms and conditions related to that approval.

Chairman Colven opens the hearing and calls on those wishing to speak.

Janet Rosson, a retiree of the VVWD, reads into the record her letter dated May 16, 2007, protesting that the retiree benefits in the consolidation have not been thoroughly addressed. Her concerns, as outlined in her letter, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein, include: (1) that the quoted statement of the City contained in Resolution No. 07-037 is an intent of the City Council and does not guarantee that any rights would be afforded to the retirees, nor does it put any plan for the retirees in writing; (2) that the portion of the statement "in the same manner as previously agreed upon at the time of separation from his or her respective district" is not clear as to whether this means upon the consolidation date or at the date of the annuitant's retirement; (3) that the statement of intent by the City Council does not include life insurance benefits; and (4) that the supplement to Medicare that she currently has covers the entire United States; that she understands that the health insurance that the City currently provides does not; and that some retirees currently living outside of California could be left with no health insurance or supplement to Medicare. Ms. Rosson requests further consideration of these issues and that a plan for VVWD retiree benefits be included in the LAFCO resolution.

Terrie Flint, a Director of VVWD, says she does not expect that anything she says will change anyone's mind on the takeover but she asks that the Commission insure that employees of the BMWD and VVWD are taken care of and treated fairly. Ms. Flint says that she attended a meeting at the City and that City management said that a lot of the details will be worked out when the employees get to the City. She says that is not fair; that the employees need to know what will happen to them before they go to the City. She says she is also representing the people who elected her to serve on the Board of the VVWD, which has existed since 1931, and she says that when she is asked why the District is being taken over, she does not know what to say. She says the Commission has questioned the amount of money that the City has said will be saved through consolidation; and she says the VVWD has now found out that all the employees will be transferred to the City. She says they will save money on the Water District books if all the employees are transferred to the City, but the City's budget will go up. She asks whether they are being taken over because a member of the Commission did not realize that the water districts do not control the wastewater—that the City controls wastewater. She says that since being elected in 1999, she personally has been trying to work with the City on the wastewater issue, as well as working with Kimberly Cox, but she says she has gotten nowhere. Ms. Flint says it is a shame that the Commission has let down the people of the Victor Valley who are supposed to be represented here; that people did not do their homework on this issue and that the initial recommendations of staff, who spent countless hours on this issue, were not considered; that the Commission has not taken into consideration all the people who contacted LAFCO and the VVWD to say they were not in agreement with this proposal; and that this issue was decided on false information and LAFCO did not let the people decide who they want to run their Water District. She says her life will be changed forever by the Commission's actions and the City's relentless efforts to take over the VVWD no matter who gets trampled. She says the VVWD is a solid agency that has been in existence since 1931; that the Boards of the agency have done nothing but good; and that the VVWD still has not received an answer as to why the City wants the District, which is something she says the Commission should consider.

Chairman Colven asks if there is anyone else wishing to speak on this matter. There is no one and he closes the hearing.

Commissioner Mitzelfelt moves approval of staff recommendation, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Mitzelfelt voting in his stead).

MUNICIPAL SERVICE REVIEWS FOR THE COMMUNITIES OF PHELAN AND PINON HILLS INCLUDING COUNTY SERVICE AREA 70, IMPROVEMENT ZONE G (OAK SPRINGS – ROADS), ZONE L (PHELAN/PINON HILLS – RETAIL WATER), AND ZONE P-4 (PHELAN – PARKS) – RECEIVE AND FILE MUNICIPAL SERVICE REVIEWS

AND

CONSIDERATION OF CEQA STATUTORY EXEMPTIONS AND SERVICE REVIEWS AND SPHERE OF INFLUENCE UPDATES FOR LAFCO 3020-COUNTY SERVICE AREA 9 (PHELAN), LAFCO 3023A-COUNTY SERVICE AREA 56 (WRIGHTWOOD) AND LAFCO 3023B-COUNTY SERVICE AREA 56, IMPROVEMENT ZONE F-1 (PINON HILLS) – RECEIVE AND FILE MUNICIPAL SERVICE REVIEWS; DIRECT STAFF TO RETURN AT JUNE 20, 2007 HEARING WITH ENVIRONMENTAL DETERMINATIONS RELATED TO SPHERE OF INFLUENCE UPDATES AND PROVISION OF DRAFT RESOLUTIONS

AND

CONSIDERATION OF: (1) NOTICE OF INTENT TO ADOPT NEGATIVE DECLARATION FOR LAFCO 3070; AND (2) LAFCO 3070-REORGANIZATION TO INCLUDE FORMATION OF PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT, DETACHMENT FROM COUNTY SERVICE AREA 56 AND DISSOLUTION OF COUNTY SERVICE AREA 9, COUNTY SERVICE AREA 56 IMPROVEMENT ZONE F-1 AND COUNTY SERVICE AREA 70 IMPROVEMENT ZONES L AND P-4—TAKE THE RECOMMENDED ACTIONS RELATED TO ENVIRONMENTAL REVIEW AND CONTINUE CONSIDERATION TO JUNE 20, 2007 HEARING WITH DIRECTION TO STAFF TO FINALIZE THE AD VALOREM PROPERTY TAX TRANSFER AND APPROPRIATION LIMIT CONSIDERATIONS

LAFCO conducts a public hearing to consider Municipal Service Reviews (hereinafter "MSRs") for the communities of Phelan and Pinon Hills, including County Service Area (CSA) 70, Improvement Zones G (Oak Springs), L (Phelan/Pinon Hills) and P-4; to conduct MSRs and sphere of influence updates for LAFCO 3020-CSA 9 (Phelan), LAFCO 3023A-CSA 56 (Wrightwood) and LAFCO 3023B-CSA 56 Improvement Zone F-1 (Pinon Hills), (hereinafter "CSA 56 Zone F-1"); and to consider LAFCO 3070-Reorganization to Include Formation of Phelan Pinon Hills Community Services District (hereinafter "CSD"), Detachment from CSA 56 and Dissolution of CSA 9, CSA 56 Zone F-1 and CSA 70 Zones L and P-4. Notice of this hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation, and through publication of a one-eighth page legal ad in the Victor Valley Daily Press, a newspaper of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald shows a map on the overhead display of the proposed CSD. She says that on its eastern edge it abuts the City of Adelanto, the sphere of influence of the City of Victorville and the sphere of influence of the City of Hesperia and that it is bounded on the south by the National Forest boundary, on the west by the Los Angeles County line and on the north by the community of El Mirage. She says this proposal provides for the assumption of responsibility for services of retail water provision, streetlights and park and recreation and intends to dissolve a number of agencies in order to assume those services. She reports that this proposal was initiated by resolution of the Board of Supervisors adopted August 22, 2006, at the request of the CSD Feasibility Study Committee (hereinafter "the Committee") that has been working on this issue for a number of years, so that they would not need to gather signatures from 25% of the registered voters to initiate the proposal and so that the formation could be considered on the November 2007 ballot. Ms. McDonald says that today the hearing will open the consideration of the MSRs for the Phelan Pinon Hills communities and will relate only to the boundaries and environmental determinations. She says the balance of the information for the financial services and effect on other agencies is to be deferred to the June 20 hearing to allow for additional information that staff must evaluate. She states that the four legislative intent provisions of CSD law are outlined on page 3 of the staff report and that the Committee has identified a consolidated, multi-purpose entity with a locally-elected board of directors as the preferred form of governance, which fulfills the intent provisions of Items 2, 3 and 4. She explains that the timeline of Commission actions for this item to be on the November 2007 ballot is very tight and that the Commission must take its final action on June 20, as outlined in the staff report. She discusses that State law requires that the Commission's decision must include answers to the five questions listed on page 4 of the staff report.

Ms. McDonald discusses the map on the overhead display of the CSD's proposed boundaries and identifies the existing agencies within the area and/or whose sphere of influence includes the area, as outlined on pages 5 and 6 of the staff report. She reports that the Cities of Adelanto, Victorville and Hesperia received copies of the proposal and that none of them have provided any response of concern, even though the proposed CSD infringes on the City of Adelanto's sphere at its southwestern edge.

Ms. McDonald presents the MSR for CSA 70 Zone L, which was formed in 1972 and has an estimated 6,000 connections at the present time, and she shows a map of its boundaries on the overhead display. She notes that within the center of CSA 70 Zone L, the retail water service is provided through the Sheep Creek Water Company and she says that on several occasions, service by CSA 70 Zone L has been provided within the Sheep Creek area due to lack of sufficient supply for fireflow. She discusses CSA 70 Zone G and says that in the 1990's, its water service responsibilities were consolidated with those of CSA 70 Zone L. Ms. McDonald says the water supply for Zone L is pumped from the local groundwater basin and that Zone L receives most of its water from an adjudicated water basin. She notes that Zone L has purchased property outside the jurisdiction of the Mojave Water Agency, watermaster for the adjudication, and owns a well site and pumping facilities within Los Angeles County which provide a supplemental source of water for the District, which provides for a portion of the replacement water. As outlined in the staff report, Ms. McDonald discusses Growth and Population Projections, Financing Opportunities and Constraints, Rate Issues and Restructuring, Cost Avoidance Opportunities, Local Accountability and Governance and Other Governmental Service Options. She says LAFCO 3070 proposes to dissolve CSA 70 Zone L and declare the CSD as the successor district for its operations, responsibilities, assets and liabilities.

Ms. McDonald presents the MSR for CSA 56 and CSA 56 Zone F-1. She says that CSA 56 was formed in September of 1966 to serve the Wrightwood community with park and recreation, streetlighting and animal control services; that in 1980 a reorganization to consolidate the services to the Wrightwood community under a single-entity, CSA 56, was approved; and that the action dissolved the Wrightwood Fire Protection District, expanded CSA 56's authorized services, and annexed additional territory. She says that in 1983, the Pinon Hills community requested annexation to CSA 56 to remove itself from the service delivery of CSA 38 and CSA 38 Zone F, operated then by the California Department of Forestry, and also requested the creation of an improvement district to address their local fire protection services (CSA 56 Zone F-1). She reports that for the past 20 plus years, the jurisdiction for the administration of the majority of services received by the Pinon Hills community has been joined with that of the Wrightwood community, with CSA 56 authorized to provided the services of fire protection, ambulance, park and recreation, streetlighting, sewers and animal control. She notes that information received from the County Special Districts Department indicates that CSA 56 only actively provides fire protection, ambulance, park and recreation and streetlighting services presently within the Wrightwood community and that CSA 56 Zone F-1 is authorized by the Board of Supervisors for fire protection and park and recreation services only. Ms. McDonald states that it is important to note that fire protection is not being discussed through this MSR; that fire protection for Wrightwood and Phelan/Pinon Hills is part of the County Fire Reorganization. But she says that pages 14 and 15 of the staff report address funding issues regarding property tax revenues attributable to CSA 56 Zone F-1 and staff's concern about the sustainability of CSA 56 to provide its services after reorganization since 45% of the property tax revenue stream to fund the services of CSA 56 is derived from within the community of Pinon Hills, territory which is proposed to be removed through detachment. As part of the discussion of Financing Opportunities and Constraints, she outlines the division of property tax revenues between fire and other operations pursuant to the existing formula. She explains that as a part of the County Fire Reorganization, the County Administrative Office, County Fire and Special Districts Department have negotiated the permanent transfer of property tax revenues to assure the equitable distribution of revenues for the future. She notes that this agreed to formula is outlined in a letter to LAFCO dated April 13, 2007, included as Attachment 6 to the staff report. She says concerns over this issue, as well as concerns that the fire fund currently funds streetlights within the Wrightwood community, will be evaluated at the June 20 hearing. As outlined in the staff report, Ms. McDonald summarizes the Cost Avoidance Opportunities, Local Accountability and Governance and Other Governmental Service Options. She says LAFCO 3070 initiates the reorganization to consolidate CSA 56 Zone F-1 with the other Board-governed agencies within the Phelan Pinon Hills communities into an independent CSD and it proposes the detachment of

CSA 56 from the area, reducing its boundaries to those of the Wrightwood community. She explains that since CSA 56 has a sphere assignment that includes the Pinon Hills community, as a result of the MSR and processing of LAFCO 3070, the sphere will need to be reduced to represent the Wrightwood community. She says staff will provide an environmental evaluation of this sphere reduction and return with a recommendation at the June 20 hearing.

Ms. McDonald presents the MSR for CSA 9, which she states was formed in January 1962 to provide streetlighting service to a nine square mile area of the Phelan community. She reports that in 1997, three proposals for CSA 9 were processed to: (1) expand the authorized powers of CSA 9 to include park and recreation and road maintenance; (2) expand its sphere to include the whole of the Phelan community as defined by the then adopted community plan; and (3) annex 45,000 acres to the District. She shows the current boundaries of CSA 9 on the map on the overhead display, noting that it currently funds 108 streetlights and operates and maintains the park located at the corner of Sheep Creek Road and Warbler but does not actively provide road maintenance services. As outlined in the staff report, Ms. McDonald discusses the Financing Opportunities and Constraints, Rate Issues and Restructuring, Cost Avoidance Opportunities, Local Accountability and Governance and Other Governmental Service Options. She reports that since LAFCO 3070 proposes to dissolve CSA 9, a sphere change will be required to determine a zero sphere for this District. She says staff will provide an environmental evaluation of this sphere reduction and return with a recommendation at the June 20 hearing.

Based upon the information presented, Ms. McDonald states it is staff's position that: (1) the boundaries presented to the Commission for the CSD through LAFCO 3070 represent the combined communities of Phelan and Pinon Hills, for a cohesive socio-economic community of interest; (2) the boundaries of LAFCO 3070 represent a reasonable service boundary for current and future growth within the community as identified within the Phelan Community Plan; (3) the boundaries represent an efficient service delivery pattern for the full range of services contemplated for the agency through absorption of the existing service providers; and (4) the area of the City of Adelanto sphere of influence which has been included within the CSD is currently provided service through CSA 70 Zone L and cannot be easily transferred to service by the City of Adelanto and, therefore, it should be included within the boundary of the CSD.

Ms. McDonald presents an aerial "flyover" of the proposed CSD and areas surrounding it.

Ms. McDonald states that the majority of the financial considerations will be deferred to the June 20 hearing, but she says that two areas will be discussed today related to the required ad valorem property tax revenue transfer and appropriation limits. She discusses the property tax transfer process, stating that the existing entities currently within the boundaries of the CSD and their revenues are outlined on page 19 of the staff report and on the overhead display. She reports that CSA 9 and CSA 70 Zone L will be transferred in their entirety since these agencies will be dissolved and their assets transferred to the CSD. However, she says that CSA 56 and CSA 56 Zone F-1 have issues related to multiple functions that will not be transferred in their entirety, specifically fire. She says the staff report outlines the property tax transfer process that will take place. She discusses a problem, explaining that through the detachment of CSA 56, under normal circumstances the revenues from CSA 56 generated in Pinon Hills would transfer to the new CSD. She reports that under the current process, that represents $59,258 for park and recreation and other services, which she says is 45% of the revenues associated with the operation of CSA 56 for Wrightwood. She says this situation has existed for a number of years and is an issue that the Commission must address through this formation process and she says that staff believes the Commission is obligated to provide funding of $35,000 from CSA 56 Zone F-1, $50,000 from CSA 9 and almost $693,000 from CSA 70 Zone L. She reports that the environmental document requires a mitigation measure that, as a term and condition of approval, the CSA 56 revenues generated within Pinon Hills must be transferred back to CSA 56 for Wrightwood and she says the revenues will be permanently readjusted through a process outlined in Revenue and Taxation Code Section 99.02 to accommodate that change. Ms. McDonald states that failure to do this would mean there would be an environmental consequence based on this formation requiring an Environmental Impact Report (hereinafter "EIR"), which staff does not believe to be appropriate. She says that whether or not they agree with the issue that revenues generated in Pinon Hills are being used in Wrightwood is not a point to

be discussed today; she says this has occurred in this area for more than 20 years and, in order to sustain CSA 56 in the future, these revenues must be transferred. She says that issue will be part of the June 20 hearing but she wanted the Commission to be aware of it so she could respond to any questions or provide any additional information requested.

Ms. McDonald discusses the calculation of a provisional appropriation limit for the CSD, as outlined on page 21 of the staff report. She explains that normally the appropriation limit of the dissolving agencies would be transferred to the new agency; but she says in this case, CSA 70 Zone L has no appropriation limit and the appropriation limit for CSA 56 Zone F-1 is identified as being for fire protection purposes only. She says staff is discussing with the Auditor Controller a mechanism to determine the provisional appropriation limit.

Ms. McDonald discusses environmental considerations, stating that the Commission's Environmental Consultant, Tom Dodson and Associates, prepared, and LAFCO staff reviewed, advertised and circulated, an Initial Study and Mitigated Negative Declaration for consideration. She says a mitigation measure has been identified in the Initial Study to insure that the existing tax rate allocation within CSA 56 shifts the amount of funds generated for park and recreation services in Fiscal Year (FY) 2006-07 to the community of Wrightwood. She asks Mr. Dodson to discuss his review.

Tom Dodson asks if there are any questions. He says Ms. McDonald has clearly laid out the requirement to transfer funds to the Wrightwood community, which is the most important outcome from the preparation of the environmental document.

Commissioner Mitzelfelt asks Ms. McDonald whether the $40,000 or other specific amount to be transferred would be an indexed amount in perpetuity. Ms. McDonald responds that the transfer contemplated through the conditional approval will require that a process be undertaken by the County Board of Supervisors to change the tax rate allocations within the retained boundaries of CSA 56. She explains that CSA 56's share will be elevated within that area to accommodate the 2006-07 allocation for park and recreation services and she says the only way to do that is to reduce the level of the County General Fund obligation. She says that Wrightwood, the remainder of CSA 56, will have this elevated share of property tax revenues; that it will then accrue the 2% property tax increase over time; and that any increase through development or subdivision will be attributed to that share. Commissioner Mitzelfelt comments about the timeframe to work out the equity issues, if the Commission is to take a final action on the CSD in June. Ms. McDonald explains that the process will be a condition of approval and says that process must take place through the County before the Certificate of Completion is issued. She says that between the Commission's approval date and the election, the County can initiate the process to take care of that condition. She explains that although the boundary issues and environmental considerations are the only issues to be considered today, she wanted the Commission to be aware of these financial issues because of their complexity in case there were questions today or any direction to her to return with additional information in June so that the final determination can be made at that hearing.

Ms. McDonald states that the staff recommendation is outlined on pages 23 and 24 of the staff report and includes that the Commission: (1) take the actions listed related to the environmental review; (2) receive and file the MSRs for the communities of Phelan and Pinon Hills and direct staff to return at the June 20, 2007 hearing with environmental determinations related to the sphere of influence updates and the provision of draft resolutions for Commission consideration; and (3) continue the consideration of LAFCO 3070 to the June 20, 2007 hearing, with direction to staff to finalize the ad valorem property tax transfer and appropriation limit considerations.

Commissioner Nuaimi states that Ms. McDonald commented during the discussion about the environmental impacts that the revenue transfer for the Wrightwood community has been recommended so that an EIR, which staff felt was not appropriate, would not have to be done. He asks what the Commission's alternatives would be if it was not in favor of that transfer; whether an EIR would be done; and whether that would be an unmitigatible finding. Ms. McDonald says Mr. Dodson can speak to the environmental consideration but she explains that the Commission, as a factor of consideration required

by the Cortese-Knox-Hertzberg Reorganization Act, must determine the effect of this proposal on other levels of service and other governmental agencies. She says CSA 56 currently serves the combined communities of Wrightwood and Pinon Hills and that this proposal will remove Pinon Hills. She says that revenue stream, however, has been solely isolated and directed to the services within the Wrightwood community, so the effect on the continuance of those services being provided must be evaluated with the removal of that revenue stream. She says the removal of 45% of the community's revenue stream will decimate the ability of that entity to continue to serve; she says the Commission must mitigate that in some way.

Mr. Dodson discusses proposals considered several years ago whereby the Cities of Highland, Yucaipa and Grand Terrace wanted to take over and operate the fire agencies on their own. He explains that Grand Terrace received a substantial subsidy from outside the City to operate its fire operations; that giving that City the operation of its stations would actually reduce the funds available for other agencies within the County that were supported by County Fire; so the operation of Grand Terrace's stations remained with the County. Mr. Dodson says that the California Environmental Quality Act (CEQA) requires that existing circumstances at the time that a proposal is made must be evaluated. He says with this proposal, they are comparing circumstances for agencies and that the only real effective way things change is through money and the funding for these agencies. He explains that when that funding is changed, this is one of the few times where there is what might be called a social or economic effect that translates into effects on an infrastructure system. He says that is why it was indicated that an EIR would have to be prepared; that if CSA 56 is going to lose enough funding as a result of this proposal so that its ability to provide park and recreation services goes away, that represents a significant effect for that community. He says an EIR could be prepared; and, if it indicated that there would be inadequate funds to operate the park and recreation facilities or services for the community of Wrightwood, the Commission has the CEQA authority to adopt a Statement of Overriding Considerations and approve the proposal. But he says it would be a tough set of benefits to write, which is why this tax transfer process has been structured. He points out, however, that he is talking about a CEQA process, not about the Cortese-Knox-Hertzberg process Ms. McDonald discussed.

Commissioner Nuaimi asks whether the services provided are truly for just that local community or whether they accommodate the regional draw that the Wrightwood community has. Ms. McDonald responds it is solely to operate the functions for the Wrightwood community.

Commissioner Hansberger inquires why the boundaries of the CSD were not taken all the way down to the ridgeline so that the drainage area is entirely within the entity that would be providing most of the services affected by the drainage. Ms. McDonald says she believes that boundary was chosen by the Committee because it runs along section lines; it was a simple map and legal to prepare; and it corresponds to the Phelan Community Plan boundary. She notes that when the sphere determination for the CSD is made within one year of its formation, the actual parcelization down in that area, which is in the National Forest, can be reviewed. Commissioner Hansberger comments that he does not think there is any significant problem using the boundary proposed, but he thinks that when they consider the sphere, they should look all the way to the top of the drainage boundary.

Commissioner Sedano asks Legal Counsel Clark Alsop if he sees any red flags he believes the Commission should be aware of. Mr. Alsop responds that the Commission is being asked today to make some preliminary decisions regarding the boundaries and the environmental review. He says they got a taste of the financing issues that will be discussed in June but he thinks they have been presented with an appropriate report.

Commissioner Cox asks what the opinion of the Committee is regarding the transfer of tax money. Ms. McDonald responds that the feedback is that while no one is happy, they understand the current situation; that they are more concerned that the proposal move forward and the formation of the CSD be put on the ballot than fighting over $50,000.

Chairman Colven says that water supply is discussed on page eight of the staff report, referencing the adjudication and continued overdraft, and he asks whether there will be a more in depth explanation of

the water situation. Ms. McDonald responds that it is not intended that there be further discussion about the adjudication or the free production allowance (FPA) or the replacement water because the formation of the CSD will move forward the existing Zone L FPA and its purposes for replacement water. She notes that there will be a discussion in the financial considerations regarding the mechanism that Zone L has used to purchase its required replacement water so that the CSD is aware of what those limitations are.

Commissioner Cox says she would like to add, as a member of the Mojave Water Agency and the Watermaster, that this subarea is in one of the better positions because there is the additional FPA or carryover that can be leased on an annual basis by the new CSD in order to meet its water demands. Commissioner Mitzelfelt comments that he believes that the Basin is not currently in an overdraft condition and asks if that is correct. Commissioner Cox says that particular subarea is not in overdraft.

Commissioner Pearson states that the boundaries that have been established seem to make good, common sense and should be approved. Regarding the financial issues, he says mitigation has been proposed and that, between now and the June hearing, additional information can be received to give the Commission a better understanding of the decision that must be made.. He discusses that he feels they have adequate information to move ahead with the process as recommended by staff and not jeopardize the completion of the process. He says he thinks this looks like a good proposal and they should move it ahead and allow staff do what has to be done for the presentation at the June hearing.

Ms. McDonald reiterates that staff presented these two issues today so that the Commission could present any questions it may have that staff can address in June. She says staff believes that in consultation with the Committee, the County and others, the property tax mechanism discussed is appropriate and will be presented as a term and condition for consideration in June. Commissioner Pearson points out they should keep in mind that they are trying to move this forward so that the timelines can be met to place the formation before the voters this fall. He says the voters will be the ones to make the final determination and the Commission should move forward so they will have that opportunity.

Commissioner Mitzelfelt says he agrees wholeheartedly with Commissioner Pearson's comments and moves approval of staff recommendation. The motion is seconded by Commissioner Pearson.

Chairman Colven states that he has a request to speak and he opens the hearing.

Charlie Johnson, Chair of the CSD Feasibility Committee, states the Committee that has been looking at this process was formed about three years ago.. He says staff has done an awesome job in outlining the boundary and other issues and he thanks and commends them for their hard work. Mr. Johnson announces that he contributed over $250 to the campaign of Commissioner Mitzelfelt. Regarding Commissioner Hansberger's inquiry about the boundaries, Mr. Johnson says that, as mentioned by staff, they followed traditional boundaries, trying to stay with the boundary lines that have defined their community for decades. He says they will entertain things that make sense from the standpoint of ridgelines and watershed when the CSD's sphere determination is considered. Regarding the environmental impacts, he says they agree with staff recommendation regarding the transfer and allocation of the tax funds; that they believe there is a larger benefit to the community in moving forward with self-governance. He says that as part of their community outreach, they went to the Pinon Hills Municipal Advisory Council (MAC); that the MAC's suspicions were confirmed that they have been giving money to Wrightwood for many years; and that the MAC understands the situation. He says this was such a minor issue it was not considered as part of the Feasibility Study. He reports that Supervisor Postmus was asked at the time to have the County initiate the proposal rather than getting a petition of 25% of the registered voters, as that was decided to be the easiest way to go. He discusses what has been done as far as community outreach regarding the formation, including meetings with the Pinon Hills and Phelan MACs, both of which he says are in support of the CSD. He reports that the financial issue has been discussed with the Wrightwood MAC, which is aware of the situation and is concerned. He reports they have met with the Zone L Advisory Committee, and says one of the Feasibility Committee members is the Chairman of that Committee; and he says they had the opportunity to discuss this process at an open house a few months ago attended by Supervisor Mitzelfelt. He says they have

spoken at service clubs and have discussed this on several occasions with the Board of the Snowline Joint Unified School District. Mr. Johnson says the community has matured and is ready for self-governance and the ability to make decisions locally. He reports that he attended the annual meeting of the Sheep Creek Mutual Water Company to discuss the CSD; that there were a lot of good questions asked, but not one word of opposition. He points out they have not heard any opposition to the CSD so far. As mentioned by Ms. McDonald, he says the Committee members met with representatives of the Cities the CSD is bounded by—Adelanto, Victorville and Hesperia; and he says Hesperia asked what it could do to help. He points out that the Committee had no idea that a half-section of its proposed boundary was within Adelanto's sphere; but he says that Adelanto has indicated it has no problem with that area being taken out of its sphere. He reports that they talked with Victorville; he says he believes Victorville supports this and he heard that Victorville thinks it is good that Phelan and Pinon Hills are looking toward self-governance. He notes that the proposed CSD was also discussed a long time ago with the Board of Directors of the BMWD and he says nothing but support was received from the Board. Mr. Johnson says the community is ready for self-governance.

Commissioner Sedano thanks Mr. Johnson, stating he has really done his homework; that he is very impressed to hear that they have had no opposition, which indicates they are really communicating with the people. He wishes him the best of luck. Mr. Johnson comments they are looking at all kinds of avenues to communicate about this process because they believe that ignorance on this issue could be a problem.

Diana Ramirez, a resident of Pinon Hills, says she does not support this proposal. Ms. Ramirez says that although the Committee has done its best to do some outreach, she believes that many of the residents of Pinon Hills are not aware of all the issues. She says that every time she talks to supporters of the CSD, their goal is that Victorville be prevented from annexing Pinon Hills; but she says Pinon Hills has nothing to offer Victorville, which would have to come a long way to annex them. However, she says Phelan is very concerned about annexation to Victorville and has now dragged in the community of Pinon Hills because being united in a larger group is more impressive. She discusses that about ten years ago Phelan tried to pull Pinon Hills in to form a CSD, at which time Pinon Hills said "No thank you." She says she thinks that when all the information comes out, there will be actual opposition. She says many people in Pinon Hills are satisfied with water and fire services and they go to surrounding communities for park and recreation services. She notes that she is not sure that people in Wrightwood are aware that their park and recreation district could be folding if its revenue source is taken away and she says if the residents of Pinon Hills are going to have to pick up the slack and pay for some of the future services, she can guarantee that the Commission will hear from them.

Chairman Colven asks if there is anyone else wishing to speak. There is no one and he states there is a motion and a second on the floor for consideration to approve staff recommendation.

Commissioner Mitzelfelt asks Legal Counsel whether the disclosure by Mr. Johnson regarding a campaign contribution disqualifies him from voting on this matter. Mr. Alsop states that he is not disqualified. He explains that the Fair Political Practices Commission has determined that incorporations and formations are not considered a permit or other entitlement for use because they cover a broad category, while annexations and detachments are permits. So Mr. Alsop says that receiving a political campaign contribution does not disqualify Commissioner Mitzelfelt in this case.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, Mitzelfelt, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Mitzelfelt voting in his stead).

(It is noted that Commissioner Mitzelfelt leaves the hearing at 11:12 a.m.)

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR FEE SCHEDULE REVISIONS; AND (2) REVIEW AND ADOPTION OF FILING FEE SCHEDULE FOR FISCAL YEAR 2007-08—APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to review and consider adoption of it Schedule of Fees and Charges for Fiscal Year 2007-08, to be effective June 1, 2007, and an amendment to the policy related to implementation of the Schedule of Fees and Charges. 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, Cities/Towns, Independent Special Districts, the County and those individuals and agencies requesting mailed notice.

LAFCO Analyst Michael Tuerpe 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 herein. Mr. Tuerpe states that the preliminary review of the recommended changes to the existing Fee Schedule and an amended policy related to the implementation of the Fee Schedule was conducted at the April 18 hearing. He says that no changes have been proposed in the interim and that no comments were received from the County, Cities/Towns or Special Districts. He states that the staff recommendation is that the Commission: (1) certify that the proposed revisions to the Schedule of Fees and Charges are statutorily exempt from the provisions of the California Environmental Quality Act and instruct the Clerk to file a Notice of Exemption within five days of this action; (2) adopt the Schedule of Fees and Charges and policy amendments related to implementation of the Fee Schedule, as presented, to be effective June 1, 2007; and (3) adopt LAFCO Resolution No. 2970 reflecting the Commission's determinations related to the Schedule of Fees and Charges.

Chairman Colven opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

REVIEW AND ADOPTION OF FINAL BUDGET FOR FISCAL YEAR 2007-08—APPROVE STAFF RECOMMENDATION AS MODIFIED

LAFCO conducts a public hearing to review and adopt the Final Budget for Fiscal Year 2007-08. 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, Cities/Towns, Independent Special Districts, the County and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report and the supplemental staff report, copies of which are on file in the LAFCO office and are made a part of the record by reference herein. Ms. McDonald reports that no comments were received on the Proposed Budget that was distributed to all Cities/Towns, Independent Special Districts, and the County. She explains that the supplemental staff report indicates that Debby Chamberlin, who is retiring, needs to cash out her vacation, holiday and administrative leave in this Fiscal Year. She says that she is requesting authorization to request a loan from the County against the County's apportionment for next Fiscal Year since the revenue stream is not available this Fiscal Year. She says the staff report outlines that staff is requesting an advance of $30,000 to be sure all costs are covered. She says this has been discussed with County staff who have indicated they have no problem with doing this. She reports that the Memorandum of Understanding (MOU) with the Information Services Department regarding technology services has been revised and she is asking for authorization to sign the revised MOU after it has been reviewed by Legal Counsel.

Ms. McDonald states that the staff recommendation is listed on page one of the supplemental staff report and includes that the Commission: (1) direct the Executive Officer to request a loan from the County in the amount of $30,000 for Fiscal Year 2006-07, to be repaid by reduction of the 2007-08 County apportionment in a corresponding amount; (2) adopt the Fiscal Year 2007-08 Final Budget, as modified; (3) approve the revised MOU with the Information Services Department subject to review by LAFCO Legal Counsel; and (4) direct the Executive Officer to submit to the Auditor/Controller-Recorder the adopted Final Budget and request the apportionment of the Commission's net costs to the County,

Cities/Towns and Independent Special Districts pursuant to the provisions of Government Code Section 56381.

Commissioner Hansberger suggests that the process of benefit accruals be a part of the annual Budget process since they run into this issue periodically. Ms. McDonald responds that in the past, the reserves have been used for that purpose. However, she explains that this year, due to the unanticipated legal expenses, the reserves were not available. She says staff is making every effort to reallocate money to the reserve account to be sure money is there in the future.

Chairman Colven asks if there is anyone present wishing to speak on this item. There is no one. Commissioner Nuaimi moves approval of staff recommendation as modified, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

(It is noted that Commissioner Curatalo leaves the hearing at 11:15 a.m.)

REVIEW AND ADOPTION OF MODIFIED BENEFIT PLAN FOR LAFCO EMPLOYEES—APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to review and adopt a modified Benefit Plan for LAFCO employees. 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 and those individuals and agencies requesting mailed notice.

LAFCO 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 reference herein. Ms. McDonald explains that the modifications are needed due to: (1) the Commission authorizing an additional Deputy Clerk to the Commission position and designating this position in a new LAFCO Benefit Plan classification to be identified as “LAFCO Benefit Group C”; (2) an increase in contribution to employees’ Health Expense Flexible Spending Accounts; and (3) the need to clarify existing retirement language identified during the Budget process.

Chairman Colven asks if there is anyone present wishing to speak on this item. There is no one. Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

PENDING LEGISLATION

Ms. McDonald says that the Commission has been presented with a copy of the CALAFCO Legislative Report. She reports that SB 819, which proposes to remove the sunset for the consolidation of special districts not formed under the same principal act, has moved out of the Senate Local Government Committee with an amendment that states that the changes do not apply to any currently-filed application at San Bernardino County LAFCO. She says the lobbyists for the San Bernardino Valley Water Conservation District and San Bernardino Valley Municipal Water District are working on the exact language to be put in before the Bill reaches the Assembly Rules Committee. She notes that there is support for this amendment and says staff will let the Commission know the direct effect of it once the language has been clarified. Ms. McDonald reports that the amendments proposed to the Brown Act are under fire from all sides and she says staff hopes that they do not go anywhere. Chairman Colven asks whether the principle author of SB 819 is “up or down” on the amendments. Ms. McDonald responds that an amendment was approved to address San Bernardino County LAFCO only and she says the exact language of that amendment has not been provided to staff. Commissioner McCallon reports that

SB 964 dealing with the Brown Act has been amended such that the League of California Cities has removed its opposition and now supports the Bill.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states she has provided a written Executive Officer's report, a copy of which is on file in the LAFCO Office. She asks for authorization to submit applications for CALAFCO Achievement Awards for the City of Fontana's Island Annexation application. She says staff believes the City's proposals could be considered for two categories—Project of the Year and Government Leadership Award. She says she has not yet received the forms for these nominations but they will be required to be submitted soon and she did not want to wait for the next hearing.

Ms. McDonald states that she is also asking for direction to place on the June 20 agenda an item to consider a nomination on the Special District Risk Management Board of Directors. She reports that Commissioner Sedano has indicated his interest in serving on that Board and is seeking a nomination from the Commission.

Commissioner McCallon moves approval of the staff recommendations in the Executive Officer's written report, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane.

Ms. McDonald reports that on the June 20 agenda will be the final hearing on the formation of the Phelan Pinon Hills Community Services District, an annexation to the City of Fontana, and the continued consideration of the Municipal Service Reviews for County Service Areas 42 and 64. She says the June 20 hearing will be adjourned to the LAFCO Staff office for a reception for Debby Chamberlin.

Ms. McDonald reports that on the July 18 agenda will be the authorization of sewer powers for Joshua Basin Water District. She notes that the Commission received a letter regarding that issue from Iona Chelette regarding the lack of a response from LAFCO staff. Ms. McDonald explains that staff responded to her and indicated that she was provided a copy of the Initial Study in the normal course of business as every other person received it; that the Notice of Availability of the Proposed Negative Declaration was published as required by law and mailed to Ms. Chelette. She says Ms. Chelette's position was that it has been the practice of the Planning Department that she receive Initial Studies in advance of others. She notes that in her response to Ms. Chelette, she indicated that she did overlook sending her the response received from the Joshua Basin Water District in January, which was an oversight.
Ms. McDonald reports that also in July the Commission will consider a clarification of sewer functions for the Hi-Desert Water District which is preparing to go on line with a sewage treatment plant, and will also consider adoption of the Impartial Analysis for the Phelan Pinon Hills Community Services District.

Ms. McDonald reports that on the August 15 agenda will be the discussion of the dissolution of Victorville Fire Protection District, Victorville Recreation and Park District and Victorville Sanitary District and possibly the beginning of the Municipal Service Reviews for the Apple Valley community.

Commissioner Pearson asks what the status is of the fire reorganization. Ms. McDonald responds that staff is diligently working on it and will give the Commission as much of the background material on CDs as possible due to the amount of paperwork. Commissioner Sedano asks where staff is in the screening of a new Clerk. Ms. McDonald responds that the application process closes May 31 and she says the Commission's Human Resources Consultant is doing some phone screening to come up with at least ten candidates to interview.

COMMISSIONER COMMENTS

Commissioner McCallon states that over the past two or three months he has had the distasteful task of dealing with Regional Housing Need Assessment (RHNA) issue at the Southern California Association of Governments (SCAG). He explains that in going through an appeals process that was just completed, an issue came up dealing with the transferring of the appropriate RHNA numbers when cities annex unincorporated County land. He says the transfer of those numbers is currently not handled well and, in some cases, is not handled at all. He says he believes LAFCO should be involved and could work with SCAG staff to see how they came up the numbers distributed for the unincorporated areas in the County and to see what would be the appropriate RHNA numbers to be transferred with an annexation. He suggests that staff be asked to look into this and come back with a discussion of this process to see what could be done about this issue.

Ms. McDonald responds that there is a finding included in the staff reports for the Fontana annexations and she says the Commission, as a factor of consideration, is required to look at how the annexation of territory will assist the ability of the annexing entity to meet its RHNA allocations. She reports that there has been a lot of discussion at the Statewide LAFCO level regarding the reallocation of RHNA numbers. She says the problem is that in a process that requires a negotiation and agreement to that negotiation, if the RHNA numbers are transferred, it will require a modification to the housing element of the annexing city at that point in time. She says that as she understands it, the housing element is now required to be redone every five years, so the reallocation of RHNA numbers is done in five-year increments and the annexations within that prior period are accommodated in that reallocation. She reports that Orange County LAFCO attempted to put together a process where there was an agreement to transfer RHNA numbers through the annexation process; but she says the difficulty they ran into was this automatic requirement to redo the housing element. She says the annexations ran into deep trouble because no one would agree to do that. Ms. McDonald says staff will be happy to get more detailed information on this issue but asks if it can be at the August hearing or after. Commissioner McCallon says he thinks the Commission should discuss this and see whether it requires some State legislation or whether there is something else that can be done because he thinks this is an issue that has dropped through the cracks and needs to be resolved.

Commissioner Sedano says he is seeking a nomination for the Special District Risk Management Authority (SDRMA) Board of Directors and says he will fight harder to see if he can get our Commission represented on the Board up there. He says there will be three openings and that there will be no cost to this Commission since the SDRMA pays all expenses.

Chairman Colven thanks the Commission for electing him as the Chairman, stating they have a lot of work ahead of them.

COMMENTS FROM THE PUBLIC

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

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 11:35 A.M.

ATTEST:

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DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

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ROBERT W. COLVEN, Chairman