

**DRAFT - ACTION MINUTES OF THE - DRAFT
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 27, 2016**

REGULAR MEETING

9:00 A.M.

JANUARY 27, 2016

PRESENT:

COMMISSIONERS:	Jim Bagley	Larry McCallon
	Kimberly Cox, Vice-Chair	James Ramos
	James Curatalo, Chair	Acquanetta Warren, Alternate
	Steve Farrell, Alternate	Diane Williams

STAFF:

- Kathleen Rollings-McDonald, Executive Officer**
- Clark Alsop, LAFCO Legal Counsel**
- Samuel Martinez, Assistant Executive Officer**
- Michael Tuerpe, Project Manager**
- Jeffery Lum, LAFCO Analyst**
- Rebecca Lowery, Clerk to the Commission**
- Angela Schell, Administrative Assistant**
- Bob Aldrich, LAFCO Consultant**

ABSENT:

COMMISSIONERS:

- Robert Lovingood**
- Janice Rutherford, Alternate**
- Sunil Sethi, Alternate**

9:05 A.M. – CALL TO ORDER – FLAG SALUTE

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

Chairman Curatalo requests those present who are involved with any of the changes of organization to be considered today by the Commission, and have made a contribution of more than \$250 within the past twelve months to any member of the Commission, to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved.

Commissioner Ramos states that he has a conflict, recuses himself and leaves the dais at 9:08 a.m.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATION:

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the hearing to discuss the matter.

1. Approval of Minutes for Regular Meeting of December 16, 2015
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of December 2015 and Note Cash Receipts
4. Review and Accept Audit Report for Fiscal Year Ended June 30, 2015

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's expense report and ratification of payments as reconciled for the month of December. Also included is the Audit Report for Fiscal Year ended June 30, 2015. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

It is noted that an amendment for the Executive Officer expense report has been provided to the Commission.

Chairman Curatalo calls for requests for deferral from Commissioners or staff; there are none.

Commissioner McCallon moves approval of the consent calendar as amended, second by Commissioner Bagley. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

PUBLIC HEARING ITEMS:

ITEM 5. CONSENT ITEMS DEFERRED FOR DISCUSSION

No items deferred for discussion.

Chairman Curatalo states that items #6 and #7 on the agenda will be considered together. Chairman Curatalo reviews the Commission's meeting procedures, noting that following the staff's presentation each proponent will be provided a five minute allowance for presentation; thereafter the public will have three minutes each for presentation. Chairman Curatalo opens the public hearings.

ITEM 6. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3197 AND (2) LAFCO 3197 – SPHERE OF INFLUENCE AMENDMENT FOR SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT (CITY OF SAN BERNARDINO AREA)

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3197, a complete copy of which is on file in the LAFCO office and is made apart of the report by its reference here. Notice of the Commission's consideration of this application was published in a newspaper of general circulation within the area, *The Sun*, through a 1/8th page legal ad in-lieu of

individual notice as authorized by statute.

Ms. McDonald states that the City of San Bernardino (hereafter shown as “City”) as part of its bankruptcy recovery plan, adopted Resolution 2015-195 on August 25, 2015, initiating an application to expand the sphere of influence for the San Bernardino County Fire Protection District (hereafter shown as “County Fire”) to include the entirety of the corporate boundaries of the City of San Bernardino. She states that in addition, the City also initiated an application to annex into County Fire and its related service zones. She states that the City’s immediate and long-term financial constraints and insolvency issues preclude the City from continuing to provide long-term fire protection and emergency medical response service at acceptable service levels. She states that approval of LAFCO 3197, along with the approval of LAFCO 3198, will allow the residents of the City to continue to receive adequate fire protection and emergency medical response services.

Ms. McDonald states that it was determined, after lengthy evaluation, that the responsibility for fire services should be shifted to the County, in an effort to help the City gain sustainability and move toward resolving the bankruptcy issues. She states that this was not an easy decision since the City’s fire department has been in existence for 134 years and has served the City well.

Ms. McDonald reviews the mandatory criteria that LAFCO is required to consider in the processing of a sphere of influence. She states that for the Present and Planned Land Uses within the City, representing approximately 38,144 acres (60 square miles) in size, contain a full range of land uses including residential, commercial, industrial, public facilities, and open space. The City’s General Plan does not designate any territory for agricultural uses. She states that for present and probable need for public facilities and services in the area the City has been challenged to provide fire service across the City, but has been particularly challenged by emergency medical demands, a required service for the health and safety of the citizens of the City.

Ms. McDonald states that the City of San Bernardino has submitted a response to the Factors of Consideration required for the sphere of influence amendment as outlined in Government Code Section 56425.. Ms. McDonald states that with regards to disadvantaged communities, the 2015 Disadvantaged Community Maps maintained by LAFCO identify that the bulk of the City area is disadvantaged, and the Commission has an inherent responsibility to assure the continuation of the critical public health and safety service. She reviews the map on the overhead.

Ms. McDonald states that for the present capacity of public facilities, County Fire operates 75 fire stations, serving approximately 750,000 residents in approximately 16,535 acres of unincorporated territory plus five unincorporated cities and two fire protection districts. She states that it is the largest provider of pre-hospital care in the County and the second largest ambulance provider. She states that County Fire is a fiscally sustainable agency that can provide adequate levels of fire protection and emergency response. She further states that County Fire supports the economic and social community defined by the corporate boundaries of the City of San Bernardino over the long-term and is critical for the safety and well-being of City residents.

Ms. McDonald states that the Commission's Environmental Consultant has reviewed the application materials and has indicated the proposed sphere amendment is not judged to pose any adverse changes to the physical environment and that his recommendation is that sphere amendment is exempt from the requirements of CEQA and that a Notice of Exemption be issued.

Ms. McDonald states that legal notice of the Commission's consideration of the proposal has been provided through publication of an 1/8th page ad in *The Sun*, a newspaper of general circulation and that individual notice was provided to the affected and interested agencies, county departments and individuals requesting special notice. She states that the map and legal description is adequate for this sphere amendment.

Ms. McDonald states that staff is recommending approval of the expansion of the sphere of influence for the San Bernardino County Fire Protection District to include the entirety of the City of San Bernardino.

Chairman Curatalo asks if the Commission has any questions for staff on this proposal. There being none, the Commission continues to the next agenda item.

ITEM 7. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3198 AND (2) LAFCO 3198 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE SAN BERNARDINO FIRE PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE AND SERVICE ZONE FP-5

Executive Officer Kathleen Rollings-McDonald presents the staff report for LAFCO 3198, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Ms. McDonald states that notice of the Commission's consideration of this application was published in a newspaper of general circulation within the area, *The Sun*, through a 1/8th page legal ad as authorized by statute and individual notice has been provided to landowners within the area as required by Government Code Section 56121 related to the imposition of an existing special tax.

Ms. McDonald states that the proposal is a reorganization to transfer through annexation, the City's fire responsibilities to the San Bernardino County Fire Protection District (hereafter shown as "SBCFPD" or "County Fire"), its Valley Service Zone and Service Zone FP-5. She reviews a map of the area on the overhead.

Ms. McDonald states that for all applications for change of organization, large or small, the Commission's review will center on making the required determination in four areas; Boundaries, Land Use, Financial and Service Considerations, and Environmental.

Ms. McDonald states that for boundaries, the proposal anticipates the annexation of the entirety of the City of San Bernardino to the San Bernardino County Fire Protection District, its Valley Service Zone and Service Zone FP-5 for the direct provision of fire protection and emergency medical response. The County Fire Valley Service Zone is the defined successor agency to receive the assets and liabilities, responsibilities and obligations of the

City Fire Department, while administrative functions will be provided by the parent district, SBCFPD. She states that one of the concerns identified was the need for transparency in the collection and use of the Service Zone FP-5 special tax proposed to be applied to individual parcels within the City and that in order to identify a means to isolate the revenues, staff is proposing a condition of approval that will require the SBCFPD to create a subzone of FP-5 for that identification purpose.

Ms. McDonald states that the San Manuel Band of Mission Indians has its tribal lands located in the foothills of the San Bernardino Mountains and that some of the portions of the tribal lands are within the boundaries of the City. She says that staff has contacted the Tribal Council requesting their consent to the overlay and in response they have adopted a resolution to allow for the overlay of the SBCFPD within its tribal lands.

Ms. McDonald states that based upon the review of the proposal, it is staff's position that LAFCO 3198 provides for a definite and certain boundary as required by LAFCO law for all the affected agencies, both Successor and continuing service providers.

Ms. McDonald states that for the land use determination, the review and approval of LAFCO 3198 will have no direct effect on the land use designations assigned by the City of San Bernardino through its General Plan. She says that staff has listed in the staff report the acreage and percentage of land uses within the City and reviews the table on the overhead. Ms. McDonald states that the Southern California Association of Governments (SCAG) has adopted a Regional Transportation Plan and Sustainable Community Strategy (RTP/SCS) and that approval of LAFCO 3198 will have no direct impact on those determinations and will assist in the implementation of the 2016 RTP/SCS. Ms. McDonald states that the determination can be made that the approval of LAFCO 3198 will have no direct impact upon land use decisions within the City of San Bernardino.

Ms. McDonald states that for Service considerations the Commission is to ensure that the service levels will, at a minimum, be maintained; that staffing from the City fire operation, including its dispatch operation, will transfer to County Fire and the Joint Powers Authority known as CONFIRE seamlessly and that the reorganization is financially sustainable.

Ms. McDonald states that all the City fire suppression employees will be transferred to County Fire but none will be placed above the level of captain. Dispatch, employees will be transferred to CONFIRE, a joint powers authority providing regional dispatching services. In order to memorialize those actions, staff is recommending that the Commission include a condition in its approval addressing this requirement, as detailed in the staff report.

Ms. McDonald states that throughout the review process for annexation, the bankruptcy proceedings, and the RFP process, the Firefighters Union has been represented in discussions and that the updated Action Plan outlines the process. She states that on January 4, 2016, LAFCO staff received a letter from the City Attorney outlining existing and continuing litigation between the City and the Fire Union related to the "contracting" or outsourcing of the fire responsibilities. She states that LAFCO 3198 is not a contract but a jurisdictional change transferring permanently, without contractual right of termination, the responsibilities for fire protection and emergency medical response along with the

employees for suppression, prevention, administrative and dispatch and that it will not have an impact on the ongoing litigation between the Fire Union and the City.

Ms. McDonald states that included in the conditions for the transfer of employees is that the City is to obtain a workers' compensation tailing insurance policy covering all worker compensation claims of all City fire suppression personnel and other city employees transitioning to County Fire and/or CONFIRE upon the effective date of the reorganization; a condition has been included that the City shall retain the obligations for unfunded retirement obligations, and any contractual benefit following retirement such as health insurance maintenance or payment for all suppression and other City employees transitioning to County Fire and/or CONFIRE.

Ms. McDonald states that for facilities transfer, the City will transfer ten fire stations, its fleet facility, its fire vehicles, excluding the 1948 Seagrave parade engine, and all appurtenant equipment to those facilities to County Fire Valley Service Zone in an "as is" condition. She states that the City will not transfer Station 223, located on Medical Center Drive, and Station 230, located on South Arrowhead, as both are currently shuttered and not operating as fire stations. She reviews a map and listing of the station facilities. She states that as a condition of approval the quitclaim deeds shall be prepared by the City Manager's office to be filed upon the effective date of the change with a copy provided to LAFCO; and that CONFIRE shall accept all dispatch related equipment transferred from the City in an as is condition.

Ms. McDonald states that for financial effects, it is important to understand the financial position of the City's fire operation. She states that the City provided unaudited year end totals from Urban Futures, the City's financial consultant for the past several years. She reviews the revenues on the overhead and states that the finance materials received on December 15, 2015 shows a picture of continuing cuts to City Fire Department operations, significant debt obligation for the City's fire operations, and the need for use of the entire proceeds of the general ad valorem property tax and all the proceeds of the Motor Vehicle License fee property tax swap revenues. She states that a condition of approval shall be that the debt obligations of the transferring City fire department shall be either paid in full prior to the issuance of the Certificate of Completion or assigned to the Successor District. She states that the debt obligations relate to the City's leaseback financing with the California Infrastructure and Economic Development Bank (to be paid in full) and the lease through WESTNET (to be paid in full).

Ms. McDonald states that the Plan for Service and Fiscal Impact Analysis (hereafter shown as "FIA") identify that the annexation will provide for the continuation of service at current levels and it also estimates that the transition to County Fire will result in a reduction in response times through a consolidation of dispatch operations with CONFIRE.

Ms. McDonald reviews the expenditures and revenues as noted in the staff report and states that FIA identifies the suppression, prevention and administrative personnel costs for the five years following the transfer to County Fire and brings the anticipated projected expenditures for the first five years of operation to increase more than \$2,000,000 above the City cost for the preceding fire year period. She states LAFCO staff believes that the

expenditures identified in the FIA reflect the anticipated costs for the operation and the maintenance of the level of service previously provided by the City and, in those instances identified, increase the service.

Ms. McDonald states that during the processing of the proposal, it was determined that the property tax receipts for the City are comprised of general ad valorem taxes and property tax in lieu of motor vehicle license fees (hereafter shown as "VLF Swap revenues"); the ad valorem taxes can be transferred directly as part of the negotiation process, however, the VLF Swap revenues cannot be transferred to a special district. She states that in order to provide for the level of funding necessary to sustain the operations being transferred to County Fire, a contractual agreement is required between the City, the Valley Service Zone of SBCFPD and the County Auditor-Controller specifying that 35% of the property tax proceeds from the swap of Motor Vehicle License Fees will be directed to the Valley Service Zone for the fire operation delivered to the City, which is included as a condition of approval.

Ms. McDonald states that staff learned in December that a provision of the Joint Powers Agreement for the Inland Valley Development Authority (hereafter shown as "IVDA") does not allow for the property tax base and increment portion of the ad valorem taxes allocation to the City within its territory to be transferred to County Fire. To address this issue it has been determined that a contractual arrangement be entered into to provide a sum equivalent to the property tax, increment, and pass through funding that would have been transferred to County Fire by a property tax exchange be derived from VLF Swap revenues. Therefore, staff is recommending a condition of approval, to be completed prior to issuance of the Certificate of Completion, that reflects the agreements between the County Administrative Office, County Fire, and the City of San Bernardino for these contractual transfers within the IVDA area as reviewed on the overhead maps and detailed in the staff report. This requirement provides for the determination that the bond financing of IVDA will not be impaired by the approval of LAFCO 3198. Ms. McDonald states that IVDA has asked for changes to the LAFCO resolution and notes that this request has been reviewed with LAFCO Legal Counsel and staff is recommending that the request for changes to condition 13 is not appropriate and is not recommended and that the request for change to section 2 determinations, number 13, will be incorporated, as noted in the additional materials provided to the Commission.

Ms. McDonald reviews the map of the Verdemont Fire Station service area and states that Community Facilities District #1033 (hereafter "CFD #1033") was formed by the City in 2004 and that a special tax was provided for funding to build, equip and man the Verdemont Fire Station and defines the standards of service that were to be met. She reviews the map that identifies the actual parcels paying the annual special tax provided by the City and states that only a limited number of parcels within the service area pay the special tax. She states that staff questioned why only certain parcels were being taxed; however, the City was not able to provide an explanation of the number of tracts paying and not currently paying based upon development timing. She states that due to the issues involved with the administration of CFD #1033, which is to be transferred to County Fire for further administration and the component of the reorganization proposal to include a per parcel charge for funding fire protection, staff is proposing a condition of approval to

transfer CFD #1033 for administration by the Valley Service Zone of SBCFPD but only for the office, retail, commercial and industrial parcels currently assessed and those which will be developed in the future.

Ms. McDonald reviews the map of the unincorporated islands and states that these areas are within the Valley Service Zone and Service PM-2 which provide revenues to the SBCFPD for administration and service estimated to be \$1,226,050 annually which will also be available for use in support the fire protection and emergency medical response within the overall San Bernardino community.

Ms. McDonald states that as part of the reorganization process, staff has reviewed the existing contracts which have been entered into between the City on behalf of its Fire Department regarding such matters as mutual aid, joint powers authorities, and the provision of a range of out-sourced services. She states that as part of the reorganization, a determination regarding the termination of contracts is no longer needed and the transfer of the continuing contracts must be made; staff is proposing the inclusion of a condition to reflect those determinations as listed in the staff report.

Ms. McDonald states that for environmental considerations, the Commission is the lead agency for the review of the potential environmental consequences of the reorganization and that the Commission's Environmental Consultant has reviewed the materials and has recommended that the reorganization is statutorily exempt from CEQA, based on the fact that the reorganization will transfer delivery of fire protection and emergency medical response from one entity to another which will not result in any physical impacts on the environment.

Ms. McDonald states that staff was required to notify all the landowners in the City of the proposed reorganization and the potential tax increase. She states that staff mailed 42,783 individual notices to the landowners in the affected reorganization territory, in addition to the publication of a legal notice in *The Sun*. She states that over the last three weeks staff has fielded approximately 100 phone calls from landowners requesting additional information and that the specific areas of concern generally included a desire to maintain the City Fire Department through the City reprioritizing expenditures; objection to the imposition of a special tax; a belief that the City's financial hardships are being solved through the taxation of its residents; and requests for additional clarification needed as to why residents do not have the opportunity to vote on the imposition of a special tax. She states that copies of the comment letters received have been included as attachments to the staff report. Ms. McDonald states that with regard to the increase to landowner property tax, all provision of Government Code Section 56125 have been met and that the provisions of the Government Code determines that there is no requirement to conduct an election to vote on the increase in property tax as part of the annexation process since it is the extension of an existing tax and there is the opportunity to protest the entire reorganization proposal. Ms. McDonald states that one of the comment letters received suggests that the City could subsidize funding for the Fire Department using block grants, however, she states that grant funding is not a long-term, sustainable, guaranteed stream of funding.

Ms. McDonald states that the tragic events of December 2, 2016 have shown that fire protection and emergency medical response are key for the health and safety of any community and that staff has worked diligently to ensure that a plan for adequate fire protection and emergency medical response is available to the residents of the City of San Bernardino. Ms. McDonald states that at the present time the City of San Bernardino is both service insolvent and budget insolvent related to its fire operations and cannot continue to fund adequate levels of emergency services for its residents over the long-term. She states that staff has compiled the best possible solution for the City of San Bernardino, given the City's current financial situation and that with the transfer of the responsibility of fire protection and emergency medical response services, the City can use the monies saved to address other service deficiencies that currently exist such as police protection, roads, parks or even streetlighting.

Chairman Curatalo thanks staff for their work on this proposal and asks the Commission for comments and questions.

Commissioner McCallon states that the proposal before the Commission is a difficult and multi-faceted issue and that staff has done an excellent job in preparing a clear and concise staff report.

Executive Officer Kathleen Rollings-McDonald reviews the recommendations as listed in the staff report, including that the conditions of approval must be met prior to the issuance of the Certificate of Completion and states that the Commission will need to make a motion, a second, and roll call vote on each item, beginning with LAFCO 3197 (sphere expansion) followed by a determination on LAFCO 3198.

Commissioner Bagley asks what will happen to the two stations that are not going to be transferred to County Fire. Ms. McDonald states that the City does not own the station on Arrowhead, so it will go back to the owner and that the station on Medical Center Drive is shuttered and is not needed, as the area that the station would provide service for is to be covered by an existing County Fire station located in the Muscoy community.

Commissioner Bagley states that there are some numbers that do not make sense in the unaudited budget provided and that there is a spike in the amount of services and supplies. He says that these are things that raise a red flag and that perhaps the City can answer to these number increases.

Commissioner Bagley asks what percentage of the property tax transfer is represented in the total property tax allocation; Ms. McDonald states that it is all of the City's share of the general ad valorem supplemented with motor vehicle in lieu tax swap funds.

Commissioner Bagley states that he has a concern over the vehicle license fee as it is a very volatile funding source and asks if there are currently any vehicle license fees being transferred to County Fire. Ms. McDonald states it is not transferable to a special district. Commissioner Bagley expresses his concern over the viability of funding for the provision of fire services.

Commissioner Bagley asks that with regard to IVDA, what is the long-range vision for Fire Service. He states that for the Verdemon station, the financing is complicated and that he does not want to pass on a problematic financing issue to a successor agency. He states that he is not familiar with the tribal land contracting and asks for clarification. Ms. McDonald states that the tribal land contracts are separate and apart from the City; they will transfer to County Fire; the payment made was through the conclusion of the contract, June 30, 2017, and the approximate fund balance will transfer; and that there was a payment from the tribe for the purchase of an engine which will also transfer to County Fire.

Commissioner Cox states that the proposal is a troubling one and that she strongly supports the exemption proposed for the CFD #1033. She states that County Fire is a fine organization and that they will serve the City well. She states her concern over encumbering the citizens of the City with an irrevocable tax that is a direct result of irresponsible decisions made by their elected officials. She asks staff and County Fire why Service Zone FP-5 was selected for this proposal. She states her concern over the imposition of a tax without the ability to vote as allowed in Proposition 218 and states that FP-5 increases by 3% every year. She states that there should be transparency in the monies that are being used to fund Service Zone FP-5 and that County Fire should be sure the funds are allocated appropriately and that an open dialog with the residents occur to show how their tax money is being spent. She asks staff if there is any other option for the City other than the transfer of responsibility to County Fire. Ms. McDonald states that the financial reports indicate that the City cannot sustain the Fire Department and that the City made their decision to remove the responsibility of Fire Service, and that given that the City is still in bankruptcy, there are no viable alternatives.

Commissioner Cox asks for the clarification of the Commission's Protest Process. Ms. McDonald states that every landowner will receive an individual protest notice and that the landowners and registered voters will have an opportunity to protest and that the ability to vote is available should the protest threshold be achieved.

Commissioner Cox states that in conclusion, the citizens of San Bernardino will be well served by County Fire.

Commissioner Williams asks for clarification of the special tax. Ms. McDonald states that the FIA shows a 3% increase for the lands within the City, and that no other change in the property tax will occur, except for that which is statutory; for those properties in the community facilities district, their property tax would decrease for residential properties, and all residential properties will be paying the same amount in property tax. Commissioner Williams asks if all the residents are currently being taxed for fire service. Ms. McDonald states that the residents currently do not pay a separate tax for fire service, with the exception of CFD #1033. Commissioner Williams states that she is a supporter of the Proposition 218 process.

Commissioner Farrell asks for clarification of the exception that has been discussed; Ms. McDonald states that the annexation to Service Zone FP-5 is what has been discussed. Commissioner Farrell asks for clarification on the comments from IVDA regarding their concerned outlined. Ms. McDonald clarifies. Commissioner Farrell asks what will happen if

the conditions are not met. Ms. McDonald states that all the conditions must be met and that staff will be working with those involved to be sure they are since the Certificate of Completion cannot be issued and the reorganization will not be effective until they are completed. Ms. McDonald notes that the change of organization must be completed prior to August 8th in order for the special tax to be placed on the tax roll.

Commissioner Warren states that as local elected officials they are charged with keeping the community safe. She states that the tragic events of December 2nd show how important it is to keep the public safe and how important the emergency service departments are to the community. She states that Proposition 218 is important to her but that the City has a hard decision to make and that given the situation, they have made the best decision for their constituents.

Chairman Curatalo states that these decisions affect the residents, workers, and visitors of the City and that public safety is very important. Chairman Curatalo calls for presentation by the proponents.

Mayor Cary Davis, City of San Bernardino, states that the City would like to thank staff for their work on the proposal. He states that he, the City Attorney and the City Manager are in support of the reorganization and that they are working together to see the annexation come to fruition and that they feel that the decision is in the best interests of the residents of the City and for the future of the City.

San Bernardino City Attorney Gary Saenz thanks staff for their work on the proposal and states that the City has been working on a recovery plan, a plan of adjustment to get the City back in a positive fiscal shape and to increase the service of public safety, specifically police services. He states that he is in support of the annexation.

Andy Belknap, Management Partners consultant for the City, states that the City has been going through a transition from bankruptcy to sustainability; the transfer of the responsibility of fire services will allow the City to become sustainable and will allow for savings that can be used to improve other services such as police and street services.

Commissioner Bagley asks about the unfunded pension liabilities and the pension debt. Mr. Belknap states that the City has taken steps to reduce the unfunded liability and that the City will honor the existing debt for the pensions for the Fire Department employees and will continue to pay it.

Chairman Curatalo states that this decision will have an effect on the police as well. Mr. Belknap states that the City believes that with the removal of the responsibility for fire service, there will be an immediate ability to enhance the police services in the City and that the transfer of dispatch will help decrease the response times.

Chief Mark Hartwig, San Bernardino County Fire Protection District, thanks LAFCO, City, County Fire and the CAO's staff for their hard work on the proposal. He states that partnership is important to County Fire; he states that accountability is also very important to County Fire. He states that the City Fire Department has a long history and tradition and

County Fire has a lot of respect for what they have accomplished in the past 134 years. He shows on the overhead map the County Fire and CONFIRE resources and shows the major fire facilities and offices. He states that County Fire has developed 10 special tax areas identified as FP for fire protection or PM for paramedic services; those are areas that have been voted on by the people to provide enhanced services. It was determined that FP-5 best fit the financial need of the City.

Commissioner Cox asks if FP-5 was selected due to the tax amount. Chief Hartwig replies that it was chosen as the special tax definition and amount which best fit the needs of the City.

Commissioner Bagley states the unaudited financial report shows a large change in labor costs. He says that the equipment being transferred will be received in an as is condition; he asks if all the equipment has been reviewed. Chief Hartwig states that all equipment has been reviewed and that County Fire is aware and has discussed all the details regarding the transfer of equipment and that they are comfortable with what has been presented in the staff report. Chairman Curatalo clarifies that equipment includes apparatus, fire engines and fire trucks.

The Commission takes a recess from 11:20 a.m. to 11:38 a.m.

Chairman Curatalo calls for comments from the public.

Tom Hannenman, Acting Fire Chief, San Bernardino City Fire Department, states that he is proud to be a part of the City Fire Department and thanks County Fire for their work in the transition of responsibilities. He expresses his support for the annexation.

John Marini, Representative of the Firefighters Local 891 representing the City of San Bernardino, reads into the record a statement from the Firefighters Union defining its support for the annexation. He says as a fire fighter and a father, he would also like to add his support for the annexation.

Michael Burrows, Executive Director, IVDA, commends LAFCO staff, the County Staff and the City Staff for their work on this proposal. He states that IVDA has worked with both organizations in the past and that they are in support of the reorganization. He states the comments on the resolution are to secure the bond debt and that in response to questions from the Commission; that the airport has an existing contract for the airport fire station as a lease from the City and the City provides on call services. He states that County Fire is more than capable to continue to provide these services. Commissioner Bagley asks about IVDA's revenue source for the funding of the fire service. Mr. Burrows states that there is no cost; IVDA provides the equipment, the City provides the staff on an on-call basis.

Augustus Suiter, Property Owner, states his concern over the lack of basic services provided by the City.

Gary Saenz, Property Owner, states he is in support of the annexation and that he considers the increase in his property tax as an investment in the City and that the increase in public safety will help increase property values.

Stewart Cumming states that the report does not list response time for emergencies. He states that the City has mismanaged the City finances and that he does not approve of a tax without representation.

Karmel Roe states that she opposes the annexation and that there are financial options through block grants. She asks that the Commission grant an extension to the protest period to 45-days.

Sandra Ibarra, Property Owner, states that she is in opposition to the annexation and the tax increase and asks that the protest period be extended to 45-days.

Arthur Davis, San Bernardino resident, states that he is in opposition to the increase to the property tax and that the City is underserving the area in zip code 92408.

Dan Carlone, San Bernardino resident, states that he supports the special tax increase and the reorganization.

Scott Olson, San Bernardino resident, states that he is in opposition to the increased tax and that the boundaries of FP-5 do not meet the City boundaries. He also says that information regarding what the County residents will be paying for fire service has not been provided.

Stephan Rogers, Redlands resident, states that there should be other alternatives and that the removal of City fire services should not happen unless the City is being dissolved. He says that Gateway also responded to the City's RFP and states that the information was not given as to whether they also proposed an increase in tax.

Clementina Pena, Property Owner, states that the City has not been clear as to where the property tax monies have been allocated in the past. She states that she is in opposition to the tax increase and that the City should allow the citizens of the City to determine where the tax monies are spent and asks for a 45-day protest period.

Kathy Malan, San Bernardino resident, states that the original request was for a contract that soon became an annexation. She is in opposition to the increase in property tax and questions the choice to annex to FP-5. She states the proposal should be put before the voters

Jim Morris, San Bernardino resident, states that the citizens of San Bernardino have suffered under poor leadership and have asked for change; as part of the new leadership group, as demanded by the citizens, they are making change and the reorganization is a part of the change. He states that this will help the City in its path to recovery. He states that he is in support of the annexation.

Harry Donaldson Jr., property owner, states that she is in opposition of the property tax and that it will be a financial hardship for many citizens.

Anthony Serrano, San Bernardino resident, states that the tragic events of December 2 happened in his neighborhood. He states that the issues regarding Mello Roos financial reporting needs to be addressed and that he is in opposition to the proposal.

Joe Arnet, San Bernardino resident, states the comparisons between Helendale and the City of San Bernardino are not equal; he states that the City is avoiding the creation of a zone that would be specific to the City so that it does not go to the citizens for a vote. He is in opposition to the proposal and the increase in tax and asks that the issue go to the public for a vote, that the Commission provide the public with the protest form, and asks for an extension of the protest period.

Chairman Curatalo calls for further testimony; there being none, closes the public hearing.

Executive Officer McDonald explains the Commission's protest process and the value of the protests and states that a link is provided to the protest petitions on the LAFCO website.

Chairman Curatalo asks what the effect will be in the future if the proposal is stopped by protest; to which Ms. McDonald replies that the fire protection and emergency medical response services will deteriorate if the reorganization and special tax imposition are not successful.

Commissioner Cox states her concern over the imposition of the increase in tax through FP-5 and asks Legal Counsel to clarify. Mr. Clark Alsop, LAFCO Legal Counsel, states that FP-5 is a service zone of County Fire with a special tax; that the decision in Citizen's Association of Sunset Beach vs Orange County Local Agency Formation Commission sets the precedent in the appellate court that the extension of an existing special tax does not require a 218 process; and the State Attorney General also issued a legal opinion along the same lines.

Commissioner Cox asks if the Commission can grant a 45-day protest period; to which Ms. McDonald states that the Commission can grant the longer protest period if they so desire and that it will still allow for the completion by the July 1, 2016 date.

Commissioner McCallon states that the most important thing that a city does is to provide public safety services, that the citizens have a right to be angry and the citizens also need to take responsibility for some of the issues that have been created by those that the citizens put into public office. He states that in Highland, where he is Mayor, the City provides public service in the amount that the residents are willing to pay for. He states that the County should keep a transparent financial account of the tax monies so that everyone is clear how the monies are being spent for fire service. He commends the City for cooperating in a solution to the issues. He states that he is a believer of Proposition 218, however, he is in support of staff recommendations.

Commissioner Farrell states that he is sympathetic with the comments of the imposed tax and that he hopes that the City will be respectful of those who are burdened with the imposed tax and that in their recovery they will use monies from their own funds to help those who will struggle with the increased property tax imposition. He states that the citizens should hold their own council members responsible as well.

Commissioner Bagley states that if the City of San Bernardino recovers, the City can take back its fire responsibilities and gives an explanation of what LAFCO is charged to do. He states that the citizens should voice their concerns to the City Council. He says that LAFCO is charged with monitoring municipal services and ensuring public safety; he states that there are major management issues in the City still. He states that he is in support of staff's recommendations.

Commissioner Williams states that she does not like to impose a tax that is not voted on, however, the City is in a crisis and that the decision has come to the Commission as a result of that crisis. She is in support of expanding the protest hearing to 45-days and states that it is the citizen's right to demand transparency from their elected officials, and the citizens need to use their right via the ballot box. She states that the City is also responsible for the mismanagement of the City's funds. She states that she is in support of the staff recommendation.

Chairman Curatalo calls for further comments. There being none, he closes the discussion and calls for a motion.

Executive Officer Kathleen Rollings-McDonald reviews the recommendations for LAFCO 3197 as noted in the staff report.

Commissioner Cox asks if there is an environmental requirement to separately evaluate the disadvantaged communities. Tom Dodson, LAFCO's environmental consultant states that there is not.

Commissioner Bagley moves approval of staff recommendation for LAFCO 3197, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

Executive Officer Kathleen Rollings-McDonald reviews the recommendation for LAFCO 3198 as noted in the staff report with the modification to extend the protest period to 45 days.

Commissioner Bagley moves approval of the recommendation for LAFCO 3198, as modified, second by Commissioner Cox. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

The Commission takes a recess from 1:06 p.m. to 1:10 p.m.

Chairman Curatalo reconvenes the Commission Hearing at 1:10 p.m.

DISCUSSION ITEMS:

ITEM 8. MID-YEAR BUDGET REVIEW FOR FISCAL YEAR 2015-16:

- **FINANCIAL REPORT FOR PERIOD JULY 1 THROUGH DECEMBER 31, 2015**
- **AUTHORIZATION OF FUND TRANSFER TO ADDRESS INCREASED REVENUES AND EXPENDITURES DUE TO INCREASED PROPOSAL ACTIVITY**
- **ACKNOWLEDGE COUNTY EXEMPT COMPENSATION PLAN AMENDMENTS APPROVED ON DECEMBER 15, 2015 TO INCLUDE A ONE PERCENT (1.0%) ACROSS THE BOARD SALARY INCREASE RETROACTIVE TO JANUARY 9, 2016**
- **APPROVE AMENDMENTS TO POLICY AND PROCEDURE MANUAL SECTION III HUMAN RESOURCES, CHAPTER 2 EMPLOYMENT TO REFLECT COUNTY EXEMPT COMPENSATION PLAN CHANGES**

Executive Officer Kathleen Rollings-McDonald presents the staff report for the Mid-Year Budget Review, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reverence here.

Ms. McDonald reviews staff recommendations as noted in the staff report and asks that the Commission authorize the budget adjustments; approve amendments to the LAFCO Policy and Procedure Manual related to staff compensation; and approve resolution 3210 as listed in the staff report.

Chairman Curatalo calls for comments. There are none.

Commissioner Cox moves approval of staff recommendations, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos.

INFORMATION ITEMS:

ITEM 9 LEGISLATIVE UPDATE REPORT

Executive Officer Kathleen Rollings-McDonald provides an oral legislative report update and states that CALAFCO is looking into the JPA legislation and that Senators Pavaley and Wieckowski are looking at legislation for fixes to last year's SB88, the consolidation of water providers and that there is ongoing dialog on this issue.

ITEM 10 EXECUTIVE OFFICER'S ORAL REPORT:

Executive Officer Kathleen Rollings-McDonald states that the Fiscal Indicators has been updated through 2014 and it has been posted on the LAFCO Website. She states that the second Governance Training has been completed and was well attended and received. She states that the final training will be via a webinar and that it will conclude the training sessions for the year.

ITEM 11 COMMISSIONER COMMENTS

Commissioner Warren states that she is proud to serve and that there is a need to look at government infrastructure.

Commissioner Bagley commends staff for their leadership in the processing of the City of San Bernardino's application.

Commissioner Cox states that she is glad that the Commission has been indemnified in this process.

Chairman Curatalo thanks staff for presenting a comprehensive report and thanks the Commission for their active participation in the discussions.

ITEM 12 COMMENTS FROM THE PUBLIC

Stephen Rogers, member of the public, states that he has concerns regarding charging the citizens with the responsibility for the actions proposed by the City of San Bernardino and states that he is also concerned with whether the LAFCO rules are being followed.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION THE HEARING IS ADJOURNED AT 1:21 P.M.

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman