

**DRAFT - ACTION MINUTES OF THE - DRAFT  
LOCAL AGENCY FORMATION COMMISSION  
HEARING OF MAY 18, 2016**

**REGULAR MEETING**

**9:00 A.M.**

**MAY 18, 2016**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Jim Bagley</b>	<b>Larry McCallon</b>
	<b>Kimberly Cox, Vice-Chair</b>	<b>James Ramos</b>
	<b>James Curatalo, Chair</b>	<b>Thurston Smith, Alternate</b>
	<b>Steve Farrell, Alternate</b>	<b>Acquanetta Warren, Alternate</b>
	<b>Robert Lovingood</b>	<b>Diane Williams</b>

**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**
- Bob Aldrich, LAFCO Consultant**

**ABSENT:**

**COMMISSIONERS:** Janice Rutherford, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –  
CALL TO ORDER – 9:05 A.M. – SAN BERNARDINO CITY COUNCIL CHAMBERS**

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

Chairman Curatalo calls for comments from the public regarding the closed session item. There are none. Chairman Curatalo states that the scheduled closed session will be continued to the June Hearing.

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

(Commissioner Bagley arrives at the dais at 9:07 a.m.)

**ITEM 2. SWEAR IN REGULAR CITY COMMISSIONER**

Rebecca Lowery, Clerk to the Commission, administers the Oath of Office to Diane Williams, Regular City Member, whose term of office expires in May of 2020.

**ITEM 3. SELECTION OF CHAIR AND VICE-CHAIR**

Executive Officer Kathleen Rollings-McDonald presents the staff report for the selection of the Chair and Vice Chair, 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. Rollings-McDonald opens the nomination period for the position of Chair. Commissioner Lovingood nominates Commissioner Cox for Chair. Commissioner Ramos seconds the nomination. Ms. McDonald calls for further nominations; there are none.

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

Ms. Rollings-McDonald opens the nominations for the position of Vice-Chair. Commissioner Lovingood nominates Commissioner Ramos for Vice-Chair. Commissioner Cox seconds the nomination. Commissioner McCallon nominates Commissioner Bagley. Commissioner Williams seconds the nomination.

A roll call vote is taken as follows:

Commissioner Bagley: Commissioners Bagley, McCallon and Williams  
Commissioner Ramos: Commissioners, Cox, Curatalo, Lovingood and Ramos

Commissioner Ramos is selected to serve as the Vice-Chairman.

Chair Cox asks that the outgoing Chair continue to preside over the hearing and that she will preside at the next hearing.

**ITEM 4. INTERVIEW AND SELECTION OF ALTERNATE PUBLIC MEMBER**

Executive Officer Kathleen Rollings-McDonald states that the Commission has received three applications of interest for the position of Alternate Public Member. She states that each candidate will have three minutes to address the Commission.

Charlie Johnson addresses the Commission and states that he has been a resident of Phelan for 25 years and that he has been active in local government in the Community of Phelan and has served on many boards. He states that he has worked with LAFCO on several occasions including the formation of the Phelan Pinon Hills Community Services District. He states that he believes that he is familiar with the LAFCO processes.

Devin M. Finley addresses the Commission and states that he has lived throughout the Inland Empire and currently resides in Rialto. He states that he has been educated locally and is also a franchise business owner. He states that he has been an active volunteer in the community and has mentored youth and that he has a passion to better the community. He states that he

feels he embodies LAFCO's vision for structured growth and thanks the Commission for the opportunity of being considered for the open position.

Thurston "Smitty" Smith addresses the Commission and states that he has served in public office for 10 years and in other community committees in the Hesperia area. He states that he has experience working with many of the County's city representatives. He states that LAFCO is critical to the future infrastructure of San Bernardino County as a whole and thanks the Commission for the opportunity of being considered for the open position.

Chairman Curatalo thanks the candidates for their interest in public service and for taking the time to speak to the Commission.

Executive Officer McDonald states that the statute precludes Commissioner Bagley from participating in the vote as he is the sitting Regular Public Member and that the successful candidate must receive a vote from a city, special district and county member.

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

**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.

- Item 5. Approval of Minutes for Regular Meeting of March 16, 2016
- Item 6. Approval of Executive Officer's Expense Report
- Item 7. Ratify Payments as Reconciled for Months of March 2016 and Note Cash Receipts

LAFCO considered the items listed under its consent calendar, which includes a Visa Justification, the Executive Officer's amended expense report and ratification of payments as reconciled for the month of March. Copies of each report are on file in the LAFCO office and are made part of the record by their reference herein.

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

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

**PUBLIC HEARING ITEMS**

**ITEM 8. CONSENT ITEMS DEFERRED FOR DISCUSSION**

No items deferred for discussion.

**ITEM 9. CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY THE CITY OF RIALTO FOR THE ANNEXATION NO.170, GENERAL PLAN AMENDMENT NO. 29, SPECIFIC PLAN NO. 12, AND DEVELOPMENT AGREEMENT FOR THE LYTLE CREEK RANCH SPECIFIC PLAN (SCH NO. 2009061113), AS A CEQA RESPONSIBLE AGENCY FOR LAFCO 3201; (2) ADOPTION OF FACTS, FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3201 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE CITY OF RIALTO AND THE WEST VALLEY WATER DISTRICT AND DETACHMENTS FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS VALLEY SERVICE ZONE, FONTANA FIRE PROTECTION DISTRICT, COUNTY SERVICE AREA SL-1 AND COUNTY SERVICE AREA 70)**

Chairman Curatalo opens the public hearing.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Ms. McDonald states that notice of the Commission's consideration of this application was published in *The Sun*, a newspaper of general circulation within the area and that individual notice has been provided to landowners within the area and registered voters and landowners surrounding the area as required by law.

Ms. McDonald states that for more than 20 years staff has been involved in discussions with the City of Rialto and the landowners regarding the delivery of service to the parcels owned by the Lytle Creek Land Company and reviews the map of the area on the overhead. She states that after much review, litigation, modification and public involvement, the City of Rialto submitted an application to LAFCO for reorganization in September 2015. Ms. McDonald reviews the areas to be annexed on the overhead and states that jurisdictional changes being proposed are in as follows: in areas A, B, & C – Annexation to the City of Rialto and Detachment from the San Bernardino County Fire Protection District, its Valley Service Zone, and County Service Area 70; in areas A & D – Annexation to the West Valley Water District; in area E – Detachment from County Service Area SL-1; and in areas F & G – Detachment from County Service Area SL-1 and Fontana Fire Protection District, all of which are detailed in the staff report.

Ms. McDonald states that during the processing of the application, it was identified that the Fontana Fire Protection District currently exists within areas F & G and were not addressed during the Fire Reorganization (LAFCO 3000). She states that as part of this review, staff has expanded the proposal to include the detachment of the two areas from the Fontana Fire Protection District.

Ms. McDonald states that at the December Hearing the Commission reviewed its policy on Island Annexations and directed staff to present information regarding the annexation of the Islands in the City of Rialto as a function of its consideration of LAFCO 3201.

Ms. McDonald states the proposal has resulted in boundary issues to be considered by the Commission. She provides a flyover on the overhead of the annexation area and states that as outlined on the map, the territory proposed for annexation leaves a large piece of unincorporated territory within the sphere of influence area assigned to the City and the West Valley Water District outside of the reorganization area. She states that it is a single parcel which comprises an existing sand and gravel mine owned and operated by CEMEX. She states that the Commission is directed by statute to protect and preserve open space uses and the mineral resources which may exist within these areas. It is staff's position that the CEMEX property should remain under the County's land use authority, therefore, staff supports retaining the CEMEX parcel in unincorporated status.

Ms. McDonald states that each Commissioner has a copy of a letter that was provided to staff late last evening by the City of Rialto that questions the section in the staff report related to the CEMEX parcel and the statements made regarding their lack of adopted goals or policies promoting the development of new mineral extraction activities within the community. She states that on page 34 of the City's Statement of Overriding Considerations for the Lytle Creek Ranch Specific Plan it states "With regards to that active mining operation, the City does not have any adopted goals or policies promoting the development of new mineral extraction activities within the community". She states that staff used that information in compiling the staff report and supports the exclusion of the CEMEX parcel from the annexation.

Commissioner Cox asks if this issue of excluding the mining lands is similar to the proposal heard by the commission regarding the City of Victorville. Ms. McDonald clarifies that the consideration referenced was the sphere of influence expansion for the City of Victorville and the issue is similar. Ms. Cox asks if the Commission has a policy that addresses mining lands; Ms. McDonald states that the Commission follows state law on this matter. Commissioner Farrell asks for clarification; Ms. McDonald states that LAFCO is directed to discourage urban sprawl and to preserve open-space which is defined as forest lands, rangelands, agricultural lands and areas containing major mineral deposits, as noted in the staff report. She reiterates that staff is in support of excluding the CEMEX property from the annexation as submitted by the City of Rialto.

She states that the area being annexed in Neighborhood 2 (Area B – as shown on the overhead) completely surrounds the unincorporated area commonly known as the "El Rancho Verde" community. She states that area of this island is approximately 212 acres and exceeds the 150-acre threshold for an island annexation procedure under Government Code Section 56375.3. She states that the Commission has three options: the Commission can expand LAFCO 3201 to include the entire El Rancho Verde community as part of Area B; the Commission can require the City to initiate a separate reorganization to include annexation to address the El Rancho Verde community as a condition of approval; or the Commission can approve LAFCO 3201 making the determination that implementation of the restrictions within Government Code Section 56744 would be detrimental to the orderly development of the community and that the area to be enclosed is so located that it cannot be reasonably annexed to another city or incorporated as a new city.

Ms. McDonald states that due to the historic opposition by the residents of the community to annexation, and given that the El Rancho Verde community is legally inhabited, staff supports choosing the third option to not annex that community into the City of Rialto if such other considerations are met.

Ms. McDonald states that there are five unincorporated islands in the northern part of the City of Rialto that generally qualify as an "island annexations" under the provisions of Government Code Section 56375.3. She reviews the map on the overhead and states that these five islands have been created at the request of the City and by approval of the Commission.

Ms. McDonald states that in December staff reviewed the island areas with the Commission and outlines that in 2007, the Commission considered an annexation to the City of Rialto (LAFCO 3066) and at that time, staff recommended that the Commission include a condition requiring the City to initiate the annexation of the four North Rialto Islands identified at that time. She states that the City objected to the conditioning of that project due to its location and stated that the annexation should be tied to a future development in the north, which is the Lytle Creek Ranch project. She states that the Commission modified its recommendation to instead move forward with that approval and requiring a determination that the City was to initiate the annexation of the four islands within a year, as noted in LAFCO Resolution No. 2961. She states that the City has not yet complied with that determination.

Ms McDonald states that four of the islands are fully developed and would not require pre-zoning and would not require an environmental assessment since there would be no change in land use anticipated. She states that one island has vacant land which would require pre-zoning by the City. Chairman Curatalo asks for an update on any communication between the City and LAFCO staff since the 2007 request for annexation of the islands. Ms. McDonald states that staff received an update of the financial implications on annexing the islands following the 2007 discussion but that staff was never apprised of any outcome from that report. In addition, there has been no further information provided regarding LAFCO 3066 other than the information that the pre-zoning had been changed from residential to commercial. It is staff's understanding that some discussion has been held at the county level with the City related to concessions for annexation. Ms. McDonald states that staff has provided the Commission with copies of a letter to the County CEO's office from the City of Rialto dated April 25, 2016 that discusses the report by Stanley R. Hoffman and Associates regarding the annexation of the North Rialto Islands (received by LAFCO on May 10, 2016) and a copy of a letter from the City dated May 3, 2016 to Commissioners, stating that the City of Rialto protests the concurrent annexation of the Rialto Island and list the reasons.

Chairman Curatalo asks the timeframe for annexation if the City were to initiate the annexation process. Ms. McDonald states that the annexation of the islands is a ministerial action that would be initiated by resolution of the City, which would, pursuant to Commission policy, require that information be given to the community regarding the changes in services or finances. Once it was presented to the Commission it would be approved without protest proceedings. The estimate would be approximately six months.

Commissioner Cox asked if there would be Vehicle License Fee financial challenges. Ms. McDonald states that there is no longer Vehicle License Fees to be considered as those fees

have been rescinded by SB 89, however, there are other financial opportunities to help develop infrastructure that can use tax funding. Commissioner Cox ask if the County still supports a higher tax contribution for annexed areas. Ms. McDonald states that this area is unique in that the Fire District receives a larger share of property tax revenue compared to the City, and the County has a policy where it will provide the full share of the tax revenue from the detaching agencies to the City in an island annexation.

Ms. McDonald reviews the North Rialto Islands on the flyover presentation.

Ms. McDonald states that staff has reviewed the City of Rialto's report prepared by Stan Hoffman and Associates and states that staff has looked at the financial implications of the annexation of the islands and has responded to the City with their comments. She states that there is a difference in the analysis provided by the City and the analysis created by staff. She states that LAFCO staff prepared an analysis that showed a surplus which was based on the same criteria that the consultant used in preparing the Plan for Service for the Lytle Creek Ranch project, which included revenue from In Lieu property Tax as well as In Lieu Property Tax of VLF. She states that the City included a fire service cost for an area that the City already services through its mutual aid agreement with County Fire, as detailed in the staff report; staff disputes the inclusion of additional fire costs in the analysis.

Ms. McDonald states that the report also inadvertently identified that the islands would be annexed into West Valley Water District for water service when, in fact, the areas are already with the District and the majority of the areas are currently developed and receiving water service from the District. She states that the report identified capital improvement projects and that staff agrees that these are costs that may be applicable in the future but that there is no time line to address all the areas for improvements, as confirmed with City staff. She states that an additional revenue source that the report failed to include is the revenue to be generated from the development agreement for the Lytle Creek Ranch project which is projected to be \$3,943,800. She states that the City disagrees with staff's position on the report prepared by Stanley Hoffman and Associates and that the City's comments regarding the requirement to annex the north islands as part of LAFCO 3201 are detailed in the letter dated May 3, 2016 provided to the Commission.

Ms. McDonald reviews the options available to the Commission and states that the Commission can require the initiation of the annexation of the five islands as a condition of approval for LAFCO 3201; the Commission can determine that the City would be required to initiate the annexation of the five north islands within one year of the approval of LAFCO 3201; or the Commission can determine to approve LAFCO 3201 without the requirement to address the five north islands. She states that staff is recommending that the Commission include the annexation of the five islands as a condition of approval for LAFCO 3201 and reviews the language as noted in the staff report. Ms. McDonald states that if the Commission moves forward with the requirement to initiate the five island prior to issuance of the Certificate of Completion for LAFCO 3201, that the Commission make the determination that the approval of LAFCO 3201 will make the existing unincorporated El Ranch Verde community completely surrounded by the City of Rialto and that since the entire reorganization area of LAFCO 3201 is a master planned community that cannot be developed unless the area is annexed, that the Commission determine, pursuant to Government Code Section 56375(m), to waive the

restrictions on the creation of a totally surrounded island contained within Government Code Section 56744 because it would be detrimental to the orderly development of the community, and determine that the area to be surrounded cannot reasonably be annexed to another city or incorporated as a new city. Chairman Curatalo asks if the time line can reflect less than one year or more than one year. Ms. McDonald states that the time line is at the Commission's discretion. She states that Commission has no way to compel the City to annex the north Rialto Islands other than to condition the resolution of approval or depend upon the good faith of the City to comply. Ms. McDonald states that these islands are separated from the City services and that those that are on septic systems would have to request that service from the City as there is no other provider and that at some point the City must take responsibility for these islands they have created with the concurrence of the Commission. She states that annexation of the islands is good government and that there are ways to mitigate the financial concerns with the County through the process of annexation. She reviews staff recommendations as noted in the staff report.

(It is noted that Commissioner Lovingood leaves the dais at 10:06 a.m.)

Assistant Executive Officer Samuel Martinez states that the reorganization area is primarily vacant and lists the land uses as noted in the staff report. He provides an aerial view of the proposal area. He shows the County's General Plan Land Use Map on the overhead and states that the City's General Plan for the reorganization area is designated Specific Plan and is pre-zoned as Lytle Creek Ranch Specific Plan. He reviews the City's underlying zone designations for the Lytle Creek Ranch Specific Plan within the reorganization area on the overhead.

(It is noted that Commissioner Lovingood returns to the dais at 10:08 a.m.)

Mr. Martinez states that the City of Rialto has provided a Plan for Service and that the plan includes a fiscal impact analysis that outlines its ability to provide the full range of its services for the reorganization area upon development. He states that the West Valley Water District has also provided its Plan for Service to provide retail water service for the reorganization area and that the District will have to construct new off-site facilities including a 5.4 million gallon of storage facility and the pump stations/pipelines needed to serve the project, which will be financed and constructed by the developer.

Mr. Martinez states that in reference to sewer service, the Plan indicates that the City will serve the reorganization area which requires upgrades to either two or four lift stations and approximately 9,135 linear feet of existing transmission lines will also require upgrading to serve the proposed development and that all onsite improvements would be constructed and funded by the developer.

Mr. Martinez states that for Fire Protection, the area is within the boundaries of the San Bernardino County Fire Protection District and its Valley Service Zone but that fire protection and emergency medical response services are currently provided by the City of Rialto under existing agreements with County Fire. He states that approval of LAFCO 3201 will transfer jurisdiction for structural fire protection and paramedic services to the City of Rialto upon completion of the reorganization.



Mr. Martinez states that Law enforcement services are currently provided within the area by the County Sheriff's Department and that approval of LAFCO 3201 will transfer all law enforcement responsibilities to the City of Rialto.

Mr. Martinez states that for Park and Recreation, regional park and recreation services are currently provided by the County Regional Park system which will not change following annexation. The Plan indicates that the City has a variety of parks and recreation facilities and the Specific Plan also includes a number of public and private parks.

Mr. Martinez states that Solid Waste services are currently provided within the reorganization area and within the City of Rialto by Burrtec Industries and that no change in service provider will occur through the annexation. He states that as required by Commission policy and state law, the Plans for Service submitted by the City of Rialto and the West Valley Water District show that the extension of their services to the reorganization area are required to provide the level of service anticipated by the Lytle Creek Ranch Specific Plan and that such service extensions will exceed current service levels provided through the County.

(It is noted that Commissioner Ramos leaves the dais at 10:16 a.m.)

Mr. Martinez states that for Environmental Considerations, the City's processing of the Lytle Creek Ranch Specific Plan project includes the preparation and certification of an Environmental Impact Report that was finalized by the City. He states that as noted in the staff report, a lawsuit was filed challenging the report, but that the litigation has since been resolved. He states that LAFCO's Environmental Consultant has reviewed the City's complete Final Environmental Impact Report and has indicated that the City's environmental documents are adequate for the Commission's use as a responsible agency for LAFCO 3201. He further states that copies have been provided to the Commission and reviews the actions that are appropriate for the consideration of LAFCO 3201 as detailed in the staff report.

Tom Dodson of Tom Dodson and Associates, LAFCO's Environmental Consultant, states that the environmental component is the simplest part of this project and that the Commission is not required to recertify the environmental document but is simply required to find the environmental documents adequate.

Executive Officer Kathleen Rollings-McDonald states that it is clear that the reorganization, as proposed, will benefit from the extension of the City's services, including the West Valley Water District's water service based upon the anticipated development of the Lytle Creek Ranch Specific Plan. However, the approval of the proposal calls into question the issues related to surrounding the unincorporated El Rancho Verde community and the need to review the five northern islands of unincorporated territory.

(It is noted that Commissioner Ramos returns to the dais at 10:20 a.m.)

Ms. McDonald states that as a part of the County's property tax negotiation, it was requested that as a condition of the reorganization that the five northern islands be included in the reorganization. She states that the City and the County have been in discussion to negotiate

financial transfer and support issues, however, LAFCO staff is not a part of those discussions. She states that based on the information provided in the staff report that staff is in support of a condition of approval requiring the City to initiate the annexation of these island under the provisions of Government Code Section 56375.3, prior to the issuance of the certificate of completion for LAFCO 3201.

Ms. McDonald states that due to the historic opposition of the El Rancho Verde residents to annexation to the City of Rialto, that staff believes that the determinations required by Government Code Section 56375(m) can be applied if the five north Rialto islands are addressed as noted in the staff report. She reviews staff recommendations as noted in the staff report and seen on the overhead.

Commissioner Cox asks if the islands are disadvantaged and that the Commission is compelled to address these islands as per statute. Ms. McDonald states that one is disadvantaged and that the balance of the other islands blend with the City's demographics surrounding it. Commissioner Cox asks staff to provide a presentation on the history of the boundary development. Ms. McDonald reviews the historical boundary maps on the overhead.

Commissioner Farrell asks for clarification on the flood areas. Ms. McDonald states that the reorganization does not affect flood control.

Chairman Curatalo calls upon the City as the proponent of the proposal.

Ms. Deborah Robertson, Mayor of the City of Rialto, thanks the Commission for the opportunity to comment and states that the City is not opposed to the annexation of the five north islands but would like the opportunity to conduct community outreach and asks that the City be afforded ample time for the initiation of the annexation of the five north islands. She states that the City feels that some statements in the staff report are incorrect and expresses her concern. Commissioner Bagley asks for clarification of the CEMEX issue and asks if it is in the City; Ms. McDonald states it is not in the City and has never been in the City. Ms. Robertson states that CEMEX is dependent on the City, even if they are not in the City.

Commissioner Bagley states that he sees both sides of the issue and understands the City's concerns and that CEMEX does provide a tax benefit to the City. Commissioner Lovingood comments regarding the mining area and that at times municipalities can over burden the mining companies and that is an issue of concern.

Chairman Curatalo asks Ms. Robertson if the City is committed to the annexation of the five north islands. Ms. Robertson states that the City is committed to the annexations as long as she is at the helm and that the City would need ample time to address the annexations in an equitable manner with the community and the county.

Commissioner Williams asks if there is any opposition from the public in the island areas for annexation. Ms. Robertson states that she is not aware of any opposition.

Commissioner Farrell asks for clarification of the City's request for delay in the island annexation; Ms. Robertson states that the City is asking that the Commission separate the initiation of the five north island annexations from the approval of LAFCO 3201.

Commissioner Bagley asks for clarification of the El Rancho Verde area; Ms. McDonald states that it is a community that has identified itself as El Rancho Verde since the 1960s.

Commissioner Cox asks if the City objects to the requirement to annex islands 1, 2, 3, 4, & 5 at this time or is the suppoit for a delay in the island annexations; Ms. Robertson states that the City is asking for time to work with the County and to work internally to come up with a plan on how the City is going to absorb those areas. She states that the objection would be to the determination that the islands be annexed without the benefit of time for financial planning.

Commissioner Cox asks if the Commission can hold their decision in abeyance in order to afford the City more time to develop a plan for the annexation of the five north islands; Ms. McDonald states that the Commission can delay discussion of LAFCO 3201 to allow the City time to negotiate with the County and plan for the annexation, but that a delay will not benefit the landowner.

Commissioner Lovingood asks if the Commission can approve LAFCO 3201 and discuss the annexation of the islands at a later time. To which Ms. McDonald states that the Commission cannot compel the City to annex the islands without an active proposal before it and that this is the Commission's only opportunity to require the City to annex the islands, that the Commission would have to continue to rely on the good faith of the City to annex these islands, as it has for these many years.

Rob Steel, Community Development Director, City of Rialto, states that the City submitted this application in 2015. He states that staff modified the application to include the annexation of the unincorporated islands. He states that the City conducted a fiscal impact report to address the annexation of the islands and that it has been presented to staff and the Commission. He states that the City prepared a letter to address the issues with the staff report and states that the letter from the City clearly outlines those issues. Mr. Steel states that the City is in support of Option 3 in the staff report that states that the Commission could determine to approve LAFCO 3201 without the requirement to address the five North Rialto Islands, create the new island of El Rancho Verde, and trust that the City will work towards the annexation of the islands. Mr. Steel states that based on the reports prepared by the City, that they would incur a large deficit in annexing the islands and that the Lytle Creek project would not begin to off-set the deficit until further in the future and that there will be costs related to the annexation that have not been addressed. He states that the exchange amount from the County is unfair and that the City would like to have time to inform the residents of their annexation to the City and also inform them that although their services may improve that they may also see a tax increase as they are annexed into the City of Rialto.

Mr. Steel states that the City understands the Commission's desire to annex the unincorporated areas to the City and that the City is not objecting but that the City wants to research and move the annexation on their time frame, taking the budget for capital improvements into account.

Commissioner Ramos asks if the discussions between the City and the County are under LAFCO's purview; Ms. McDonald states that as it relates to the City and the tax transfer, service transfer and others, that LAFCO would be a part of the discussion. Mr. Ramos asks if that is a discussion that would take place after the approval of the annexation; Ms. McDonald states that if it is required as a condition of approval, that it would be a necessary discussion.

Mr. Steel states that CEMEX is in the City's Sphere of Influence and that the City disagrees with the statements in the staff report regarding the mineral extractions. He states that the City interpreted the change to LAFCO's annexation policy to mean that annexation of the islands was no longer necessary and that the City stopped pursuing that process. He states that the overhead does not properly reflect what the annexation areas look like and that the streets and sidewalks are in need of repair. Mr. Steel states that the County should provide for that repair and he reviews and comments on other items of deficiencies noted in the staff report. He further states that if the islands remain in the County that the City would be willing to provide services by agreement.

Commissioner Bagley asks if the request to the County for additional time has to do with property tax; Mr. Steel states that more time is needed in order to figure out other taxable and financial matters. Mr. Bagley states that each city has a different tax base and asks for clarification regarding the Rialto tax base; Mr. Steel states that their normal allocation is thirteen cents but that the properties in the island areas would be lower.

Chairman Curatalo states that Mr. Steele seems to be against that annexation of the five north Rialto islands and that it goes against the sentiment that Mayor Robertson conveyed to the Commission. Mr. Steele states he is trying to articulate the burden that comes with the annexation of the islands and is asking for fair negotiations.

Ron Pharris, property owner, states that he would like the Commission to put themselves in his shoes, that the issue of the islands is a dilemma full of pros and cons and that he understands the Commission's position but that he needs the approval of the annexation in order to continue with his development. He states that he has a small window of opportunity in this economy and asks that the Commission take that into consideration as he cannot proceed without LAFCO's approval and that currently some of the property is in the County and some is in the City of Rialto.

Chairman Curatalo asks if there is a way to satisfy both the issue of the islands and the issue of Mr. Pharris' property; Ms. McDonald states that an enforceable means is not available, but that the Commission can include its expectation in the resolution with the understanding that if the City failed to comply as they did with LAFCO 3066, that the Commission would condition the annexation of the islands with the City's next annexation application.

Commissioner Warren asks why areas 1 and 4 were taken out of the specific plan; Ms. McDonald states that the annexation plan submitted by the City only included areas 2 and 3 and that it has been part of the discussion of the development of the specific plan, but it was not a part of the documentation that was received by LAFCO staff. Ms. Warren asks that the

City respond to her question; Mr. Steel states that it is his understanding that there were fire service issues related to the excluded areas.

(It is noted that Commissioner Lovingood leaves the dais at 11:21 a.m.)

Gina Gibson, Planning Manager, City of Rialto, states that the City of Rialto filed the application with all four neighborhoods included but that the application was verbally deemed incomplete and that the plan for services needed to be included and that when the City received the plans for service to submit to LAFCO, areas 1 and 4 were not included in the plans for service. Assistant Executive Officer Samuel Martinez states that the City application came in unofficially for review and comment prior to being submitted officially; however, the official application from the City only included Areas 2 and 3. Ms. McDonald states that although discussions were held with the City and that staff clearly noted their expectation, the official application that was received only included the two areas.

(It is noted that Commissioner Lovingood returns to the dais at 11:23 a.m.)

Commissioner Ramos asks if Areas 2 and 3 include Mr. Pharris' property; Ms. McDonald states that it is his request that the areas be annexed for entitlements and development.

Lynn Boshart, resident of El Rancho Verde, states that page 9 of the staff report states that there is a Municipal Advisory Council in El Rancho Verde and clarifies that it was suspended in 2011. Ms. Boshart states that the application filled out by Gina Gibson has errors and notes those errors. She states that for 20 years the City of Rialto has promised to annex the islands and that once again the City is only making promises. She states that there is money in the areas and that the islands should be annexed and that the residents should be informed of the annexation.

Maurice Hudson, resident of Rialto, speaks on behalf of his father and asks what is happening with the golf course and why the City has not reached out to the residents and asks for clarification of how the annexation will affect him.

Ms. McDonald states that the City has a land use designation for the area and that the golf course will be transitioning to other uses and that Mr. Hudson and his father will need to contact the City to gain that information.

Mr. Rinder, resident of Rosena Ranch, states that the information has been informative and that he has seen some of the plans and is not very excited to see apartments being built in the area since it would be close to the exit he would use and would make travel more congested. He states why the area is so important to the City of Rialto and asks what the benefit would be to the residents.

Samuel Overman, resident of Rialto, speaks in opposition of the annexation and of the development.

Mike Story, City Administrator, City of Rialto, states that the City supports the Lytle Creek Specific Plan Annexation and that the City still has questions regarding the annexation of the

five islands. He states that the City is willing to take the item to the City Council for some type of written commitment on the annexation of the islands. Mr. Story states that the City would like to continue the negotiations with the County in an equitable manner. He states that the City is trying to keep their finances in order and that the City wants to make sure that their financial standing can absorb the costs of providing municipal services to the islands when annexed.

Chairman Curatalo call for further comments, there being none closes the public hearing.

The Commission takes a recess from 11:41 a.m. to 11:47 a.m.

(It is noted that Commissioner Warren leaves the hearing at 11:42 a.m.)

Commissioner Cox states that Commission is charged with ensuring orderly development and that issues like those in the City of Rialto have been brought to the Commission in the past. She states that communities can be encouraged to join a city or can be threatened by annexation but the Commission must still make a decision on these issues. She states that the Specific Plan was developed in 2010 and that the Plan for Service was developed in 2014 and that now the Commission is faced with an urgency to approve the proposal. She also states that she would have liked the documentation provided by the City to have been given to the Commission earlier that at the hearing so that they could have the opportunity to properly review them and that she would not mind the deferral of the discussion.

Commissioner McCallon states that dealing with island issues is always difficult but that it is good government and good policy to have the islands incorporated into the City. He has no doubt in Mayor Robertson's sincerity in support of the annexation but has some concerns in the City's staff efforts to make the annexations happen. He states that the tax process with the County happens after the LAFCO decision and is not part of today's decision. He understands the property owners concern over development, however, the issue with the islands in Rialto have been a long on-going issue. He states that there have been promises in the past and that he is not in favor of giving the City more time as the Commission will have not enforcement authority and that he is understands the concerns of the City over costs, but that the developed areas can be annexed and service provided and he states that he is in favor of staff's recommendation.

Commissioner Lovingood asks how many annexations the City has processed in the past 20 years; Ms. McDonald states that they have been a number of annexations in the past. He states that the opposition is based on the associated costs to the City, but that the residents in the islands that are surrounded by the City of Rialto shop in the City and spend money in the City and do contribute financially by those actions.

Commissioner Bagley states that they City has asked for a delay in order to continue negotiations with the County, but that that portion of the process happens after the LAFCO approval process. He states that the annexation of the five north Rialto Islands is logical and is concerned for the residents since they will have to pay a utility tax, and that most people do not know that they are not in the City of Rialto, although they have a Rialto address, have children in the City schools and receive municipal services from the City of Rialto, but do not have the

ability to vote for their council board. He states that he is not in favor of delaying the approval since it is vital for the property owner to move ahead with his development. He states that he is empathetic to the City's concerns over finances.

Commissioner Williams states that this project is difficult. She states that she understands the City's concerns over the financial issues and states that she would take the City's word on good faith that they would annex the island within eighteen months and that it is to the City's advantage to annex the islands and make the City complete.

Chairman Curatalo states that he would also like to have good faith in the City of Rialto, in spite of the historical issues, and is in favor of approval with the stipulation that the City be required to initiate the five North Rialto Islands within one year of the approval of LAFCO 3201.

Commissioner Cox asks if the Commission can approve neighborhood 3 only and wait on the approval of neighborhood 2 to be able to hold the City's feet to the fire and to avoid creating an additional island. Ms. McDonald states that both neighborhoods are to be addressed together and that if the Commission wants to move forward with the good faith effort, that they include a statement in the resolution stating that the City is required to initiate the islands within one year or the next request for annexation or the Certificate of Completion will be held in abeyance until such time as the five north islands are annexed.

Commissioner Williams states her support for the modified recommendation as does Commissioner Curatalo. Commissioner Cox states that she would like to see a resolution adopted by the City Council that would support that commitment. She states that she would like to have the issue of CEMEX addressed as far as annexing them into the City of Rialto.

Commissioner Ramos asks that if certain parameters are not met, is there a way to help the City adhere to the promise of annexation and not burden the developer so that the Commission does not have to address the issue again.

Ms. McDonald states that the Commission can put language in the resolution that will state that the Certificate of Completion for the next annexation will be held until such time as the islands are annexed and that it would apply to the next proposal from the City of Rialto whether it be a property owner/registered voter petition or a resolution of the City. She states that the time frame of one year was chosen due to the amount of work and community outreach that need to be conducted prior to the annexation and that if the city fails to comply, that the island would be annexed during the next annexation as per Commission policy.

Commissioner Ramos asks if language can be included to request an update from the City in six months; Ms. McDonald states that the language can be added. He asks Mr. Pharris if he agrees. Mr. Pharris asks for clarification. Ms. McDonald states that his project would be approved, that the Commission would acknowledge the City's good faith efforts, as identified by the City, that they will move forward with the island annexations within one year, and provide an update to the Commission in six months and that failure to complete these items will cause the next annexation that is received by LAFCO to have the Certificate of Completion held until such time as the islands are annexed. Mr. Pharris states his agreement.

Commissioner Ramos asks that the recommendation be modified. Ms. McDonald reads staff's modified recommendation.

Commissioner Ramos moves approval of the LAFCO 3201, as modified, second by Commissioner Williams. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: None.

(It is noted that Commissioner Ramos leaves the dais at 12:14 a.m.)

**ITEM 10. FISCAL YEAR 2016-17 FINAL BUDGET REVIEW TO INCLUDE THE FOLLOWING:**

**A. CONSIDERATION OF (1) CEQA STATUTORY EXEMPTION FOR SCHEDULE OF FEES, DEPOSITS AND CHARGES REVISIONS; AND (2) REVIEW OF ADOPTION OF SCHEDULE OF FEES, DEPOSITS, AND CHARGES FOR FISCAL YEAR 2016-17;**

**B. REVIEW AND ADOPTION OF FINAL BUDGET FOR FISCAL YEAR 2016-17 INCLUDING THE FOLLOWING: I. FINAL BUDGET FOR FY 2016-17 AND APPORTIONMENT FOR INDEPENDENT SPECIAL DISTRICTS, CITIES AND THE COUNTY; II. EXECUTIVE OFFICER CONTRACT; III. APPROVAL OF NEGOTIATING LEASE AND TENANT IMPROVEMENTS FOR MOVE TO THE HARVEY HOUSE AREA OF THE SAN BERNARDINO DEPOT BY NO LATER THAN JUNE 30, 2017**

Chairman Curatalo opens the public hearing.

Executive Officer Kathleen Rollings-McDonald presents the staff reports, complete copies of which are on file in the LAFCO office and are made a part of the record by their reference here. Notice of the Commission's consideration of the final budget and fee schedule was published in *The Sun*, a newspaper of general circulation.

Executive Officer Kathleen Rollings-McDonald states that the Schedule of Fees, Deposits and Charges for FY 2016-17 and the Final Budget and Apportionment for FY 2016-17 have been circulated to the cities and special districts and that no comments have been received. She reviews staff's recommendations as noted in the staff reports.

Chairman Curatalo asks for comments from the public, there are none. Chairman Curatalo closes the public hearing.

Commissioner Williams moves approval of the Schedule of Fees, Deposits and Charges for FY 2016-17 and the Final Budget and Apportionment for FY 2016-17, second by Commissioner Cox. There being no opposition, the motion passes unanimously with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Williams. Noes: None. Abstain: None. Absent: Ramos.

**DISCUSSION ITEMS:**

**ITEM 11. DISCUSSION OF IMPLEMENTATION ISSUES ON CONDITIONS OF**



**APPROVAL FOR LAFCO 3198 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT ET AL (CITY OF SAN BERNARDINO) AND LAFCO 3200 – REORGANIZATION TO INCLUDE ANNEXATIONS TO SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT ET AL (TWENTYNINE PALMS COMMUNITY): A. LAFCO RESOLUTION NO. 3211 FOR LAFCO 3198 – CONDITION NO. 7 RELATED TO THE RECEIPT OF A WORKERS COMPENSATION TAILING INSURANCE POLICY AND CONDITION NO. 11 REQUIRING THE CREATION OF A SEPARATE SUBZONE OF FP-5 TO REFLECT THE CITY OF SAN BERNARDINO BOUNDARY PRIOR TO PLACEMENT OF SPECIAL TAX ON THE TAX ROLL; B. LAFCO RESOLUTION NO. 3216 FOR LAFCO 3200 -- CONDITION NO. 7 RELATED TO THE RECEIPT OF A WORKERS COMPENSATION TAILING INSURANCE POLICY AND CONDITION NO. 10 REQUIRING THE CREATION OF A SEPARATE SUBZONE OF FP-5 TO REFLECT THE TWENTYNINE PALMS COMMUNITY BOUNDARY PRIOR TO PLACEMENT OF SPECIAL TAX ON THE TAX ROLL**

Executive Officer Kathleen Rollings-McDonald presents the staff report for item 11, a complete copy of which is available in the LAFCO office. She states that as staff has been working with the affected parties on the fire reorganizations to complete the terms and conditions associated with the resolutions approved by the Commission, a few issues have arisen that require a review with the Commission. She states that the issues that have arisen, unless addressed at today's hearing, will imperil the ability to complete these changes of organization through issuance of the Certificates of Completion by the July 1, 2016 date. Ms. McDonald states that Government Code Section 56883 provides for a mechanism to address these issues which are changes due to a surprise or inadvertence. She reviews the three proposed changes as detailed in the staff report. She states that Condition No. 7 in both resolutions outlines a mechanism to assure the ability to fund Workers' Compensation Claims by the transferring agencies. She states that it was identified through discussions with County Fire that this obligation would be addressed through the acquisition of "Tailing Insurance" by each affected transferring entity, but that as both the City of San Bernardino and Twentynine Palms Water District looked into acquiring these policies, it became clear that they would be unable to acquire the insurance as required. She states that LAFCO staff has worked with County Fire, the County's Risk Management Division, the City of San Bernardino, and the Twentynine Palms Water District to provide for a means to address this requirement while keeping the intent of the condition. She reviews the administrative changes to Condition No. 7 for both resolutions as noted in the staff report.

(It is noted that Commissioner Lovingood leaves the dais at 12:23 a.m.)

Ms. McDonald states that LAFCO staff has outlined its concerns that the revenues generated through the imposition of the special tax upon the properties within the City of San Bernardino and the Twentynine Palms community be accounted for and isolated for use only within the boundaries of the respective agencies. She states that the question of transparency was of equal concern to the Commission during its deliberations, and is reflected in Condition No. 11 in the Resolution for the City of San Bernardino reorganization and Condition No. 10 for the Twentynine Palms community. These conditions outline the requirement that the San Bernardino County Fire Protection District undertake the process as outlined in Health and Safety Code 13950 to create sub-zones of FP-5 for San Bernardino and Twentynine Palms.

She states that it was determined that as a cost saving measure that County Fire is requesting that the Commission consider amending the conditions to create a new sub-zone of FP-5 at the same time as each reorganization proposal is completed. She states that staff has reviewed the request with Legal Counsel who has indicated that since the notification process identified in Health and Safety Code 13950 has been accomplished through the LAFCO process for both proposals and the questions on transparency of the revenues and expenditures were a focal point of the Commission's discussion, that the Commission can modify this condition to allow for the creation of the sub-zone as a function of the issuance of the of the Certificate of Completion. She reviews the updated language as noted in the staff report.

Ms. McDonald states that the Plan for Service submitted and approved by the Commission as a part of Condition No. 5 for LAFCO 3198 related to the transition of employees, facilities, equipment and vehicles between the City of San Bernardino and County Fire needed to be updated in order to reflect the revisions listed in a letter received by staff from the City of San Bernardino dated April 20, 2016. Ms. McDonald reviews the updates to the Plan for Service as noted in the staff report.

Ms. McDonald states that the changes proposed maintain the positions taken by the Commission in approving the terms and conditions for the proposals while addressing the circumstances which affect the methodology for achieving the desired results. She asks for approval of staff's recommendations as noted on the staff report.

Chairman Curatalo asks for comments from the Commission.

Commissioner McCallon asks for clarification of the FP-5 creation. Ms. McDonald states that the areas are to be annexed into FP-5 and that the request is to create a subzone, FP-5 San Bernardino and FP-5 Twentynine Palms, for the purpose of transparency in the tax rolls.

Don Trapp, Fire Chief, San Bernardino County Fire District, speaks in support of staff's changes.

Gary Saenz, City Attorney, City of San Bernardino, speaks in support of staff's changes.

Commissioner Cox moves approval of the administrative changes to the conditions of approval for LAFCO Resolutions 3211 and 3216, 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

## **INFORMATION ITEMS:**

### **ITEM 12. LEGISLATIVE UPDATE REPORT**

Kathleen Rollings-McDonald presents the legislative update report for, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

(It is noted that Commissioner Lovingood returns to the dais at 12:27 a.m.)

**ITEM 13. EXECUTIVE OFFICER'S ORAL REPORT: A. LETTER FROM SOMACH SIMMONS & DUNN RELATED TO STERLING NATURAL RESOURCES CENTER AND EAST VALLEY WATER DISTRICT AND LAFCO RESPONSE; B. SCHEDULE OF UPCOMING HEARINGS**

Kathleen Rollings-McDonald presents that Executive Officer's oral report and states that staff was requested to provide a response to the attorney representing the City of San Bernardino and its Municipal Water Department regarding the East Valley Water District's involvement in the Sterling Natural Resource Project Sterling Natural Resource Center and East Valley Water District's Exercise of Latent Powers. She states that copies of the request, staff's response and a clarification from LAFCO's attorney, Clark Alsop have been provided to the Commission. She states that the City of San Bernardino has filed a lawsuit against the Sterling Natural Resource Center.

Ms. McDonald states that a copy of the "Written Protest Instructions and Form" document has been provided to the Commission. She states that in an effort to eliminate the confusion over protest forms for landowner versus registered voter, staff has updated the protest form and that the form will be used starting with the Needles protest hearing.

Ms. McDonald states that a copy of the letter from Ms. Ruth Musser-Lopez requesting reconsideration of LAFCO 3205 and 3206 has been provided to the Commission. She states that Ms. Musser-Lopez had requested a reconsideration of LAFCO 3205 and 3206 but failed to provide the associated filing fees in the amount of \$3,110 and instead asked that her request for consideration be reflected as formal complaint. She states that Ms. Musser-Lopez did not provide information that was not available at the time of the Commission's consideration of the proposals and that staff would not have recommended reconsideration.

Ms. McDonald states that the reconsideration period for LAFCO 3206 Needles closes on May 20, 2016 and that the City has asked that the Protest Hearing be held in the City of Needles in the El Garces meeting room on June 22, 2016.

**ITEM 14. COMMISSIONER COMMENTS**

Commissioner Bagley states that there was a protest regarding the Twentynine Palms Fire Reorganization and that he commends staff for their excellent response to the questions of the community and that he is glad to see a more comprehensive protest form.

Commissioner Cox thanks the Commission for the opportunity to Chair and states that she will assume her duties starting with the next Commission Hearing. Ms. Cox also asks for clarification on the issues with East Valley Water District. Ms. McDonald states that currently, there is no application from East Valley Water District to activate their wastewater treatment authority and that none is anticipated; the materials given to the Commission are for information purposes. She states that there is a Joint Facilities Agreement in place by which the wastewater treatment plant is to operate. Ms. Cox asks if the District understands the need for the approval of latent powers from the Commission. Ms. McDonalds states that the issue has been discussed in Closed Session by the Commission.

Commissioner McCallon asks for clarification of the East Valley Water District's actions. Ms. McDonald states that the District does not have LAFCO recognized authority for wastewater treatment and reclamation and that the District is aware of the requirement and the process to be granted that authority. She states that the Commission cannot initiate the activation or divestiture of a function of a special district, it requires a resolution from the District requesting said action. She states that the Commission has no legal authority in this matter.

Commissioner Smith thanks the Commission for their vote of confidence in selecting him to serve as the Alternate Public Member.

Chairman Curatalo congratulates Commissioners Smith, Williams, Cox and Ramos and states that it has been an honor to serve as Chair for LAFCO.

**ITEM 15. COMMENTS FROM THE PUBLIC**

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION THE HEARING IS ADJOURNED AT 12:38 P.M.**

**ATTEST:**

\_\_\_\_\_  
**REBECCA LOWERY**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

\_\_\_\_\_  
**JAMES CURATALO, Chairman**