

**DRAFT - ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 16, 2018**

REGULAR MEETING

9:00 A.M.

MAY 16, 2018

PRESENT:

COMMISSIONERS:

**Jim Bagley
James Ramos, Chair
Diane Williams
Larry McCallon**

**Steven Farrell, Alternate
Kimberly Cox
Jim Curatalo, Vice-Chair
Janice Rutherford, Alternate**

STAFF:

**Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, LAFCO Legal Counsel
Samuel Martinez, Assistant Executive Officer
Michael Tuerpe, Project Manager
Jeffrey Lum, LAFCO Analyst
La Trici Jones, Commission Clerk
Bob Aldrich, LAFCO Consultant**

ABSENT:

COMMISSIONERS:

**Robert Lovingood
Acquanetta Warren, Alternate**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:08 A.M. – NORTON REGIONAL EVENT CENTER**

ITEM 1. PUBLIC COMMENTS ON CLOSED SESSION

No comments provided

**ITEM 2. CONVENE CLOSED SESSION – CONFERENCE ROOM ADJACENT TO
EVENT CENTER:**

Public Employee Appointment Pursuant to Government Code Section 54957
Title: Executive Officer

Conference with Labor Negotiators Per Government Code Section 54957.6:
Agency Designated Negotiator: Clark Alsop, LAFCO Legal Counsel
Unrepresented Employee: Executive Officer

ITEM 3. RECONVENE PUBLIC SESSION

Announcement From Closed Session

LAFCO Legal Counsel Clark Alsop states that the Commission met in closed session to discuss the public employee appointment of the Executive Officer for LAFCO. He states that the

Commission conducted interviews yesterday, finalized its action today, and made a selection. Mr. Alsop states that the Commission selected Samuel Martinez as the new LAFCO Executive Officer, subject to negotiating a contract which will be brought back to the Commission once finalized at the June Commission meeting.

Chair Cox states that she would like to thank all the interested parties who submitted their applications to the Commission and went through the interview process. She states that the Commission had some very fine candidates competing for the position. Chair Cox wishes Mr. Martinez luck with his contract negotiation.

Mr. Martinez states that he is extremely grateful and honored to be selected as the next Executive Officer of LAFCO. He states that he does not take the responsibility lightly and will do his best with integrity, commitment and professionalism.

Commissioner Rutherford leaves the dais at 10:07A.M.

ITEM 4. Swear in Special District Members/City Members

City Commissioner McCallon, Special District Commissioner Curatalo and Alternate Special District Commissioner Farrell are sworn in, and the oath of office is administered.

ITEM 5. Interview and Select Public Member

Executive Officer Rollings-McDonald states that it is now time to interview and select a public member. She states that the term of office for this position expires in May every four years. Ms. Rollings-McDonald states that included in the materials submitted to the Commission were four applications for the position. She states that all four applicants are present today and have been advised that they will have the ability to make a brief presentation about their interest in this position, and then the Commission can choose to select today or continue for further consideration. Executive Officer Rollings-McDonald calls the candidates for their presentations: Sheema Aamer, Christopher Allen, Louisa Amis and James Bagley. Each candidate makes a brief presentation to the Commission.

Executive Officer Rollings- McDonald states that nominations are now open, or the Commission can choose to continue selection to the next hearing for further deliberation. Chair Cox opens the hearing for nominations.

Commissioner Williams nominates James Bagley, seconded by Commissioner Curatalo.

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

Commissioner Bagley takes his oath of office and sits at the dais.

ITEM 6. Interview and Select Alternate Public Member

Executive Officer Rollings-McDonald states that the position of alternate public member became vacant when Commissioner McEachron took a position with the County, making him ineligible to

continue as the alternate public member. She states that this position will be serving the remainder of the existing term for Mr. McEachron which will expire in May 2020. She states that we have two applicants for this position. She states that Ms. Amis has also applied for this position and has made her presentation, and the other applicant is Yadir Ocegura.

Mr. Ocegura makes his presentation.

Executive Officer Rollings-McDonald turns the hearing over to the Chair to accept nominations. Chair Cox states that in the past, this has been a high desert position, but we had no applicants from the high desert.

Chair Cox opens the hearing for nominations and states that we have two very capable candidates.

Commissioner McCallon nominates Christopher Allen who applied for the primary position. Chair Cox asks for the advice of the Executive Officer as Christopher Allen did not apply for the alternate public member position to which Ms. Rollings-McDonald states that the Commission policies have a nomination and solicitation process for specific positions. She states that if the Commission chooses to override their policy, she would refer to legal counsel.

Mr. Alsop states that he believes that Commission can do this, but states that his opinion is to either select one of the two people who applied for the position or to re-advertise it.

Discussion commences with Chair Cox stating that the Commission needs to decide if we are going to allow a nomination from those who did not apply specifically for this position. Executive Officer Rollings-Mc Donald states that the Commission may want to open it up to consider all applicants not chosen rather than go through the 120-day process to re-open it and advertise. Chair Cox states that she agrees because it would save the Commission advertising costs.

Commissioner Ramos states that we have established a process to move forward and staying within the policy would be beneficial. He states that we have two applicants who took the time to apply, and one that applied for both the regular and alternate positions. It was clear that there were two different positions.

Discussion continues.

Chair Cox states Commissioner McCallon's nomination did not receive a second; therefore dies, and calls for further nominations.

Commissioner McCallon states that he would like to make another motion that the Commission open it up to more applicants and that the position be re-advertised.

Chair Cox states that we have a motion on the floor to open it up for additional applicants. She asks the Commission if there is a second to the motion. Commissioner Curatalo seconds the motion.

Commissioner Bagley asks for clarity if this means we would go back out and publicly advertise. Executive Officer Rollings-McDonald states that it would require a full re-run and re-advertising the process for the alternate member position,

Chair Cox states that the second on the floor is to re-advertise this with all the adjudicated papers that cover San Bernardino County and bring it back to the Commission at a date to be determined in the future. Chair Cox calls for the Roll vote: Ayes: Bagley, Curatalo, McCallon
Noes: Cox, Ramos, Williams

Chair Cox states that the vote is 3 to 3 and refers to Executive Officer Rollings-McDonald. Ms. Rollings-McDonald states that in a tie vote, it is automatically continued to the next meeting unless you wish to re-consider and provide for another nomination.

Commissioner Cox moves to nominate Louisa Amis for the position of alternate public member, second by Commissioner Ramos. The motion passes with the following roll call vote: Ayes: Cox, Curatalo, Ramos, Williams. Noes: McCallon. Abstain: None. Absent: Lovingood.

Chair Cox welcomes Ms. Louisa Amis to the Commission and asks that she stand to receive the oath of office and take her seat at the dais.

ITEM 7. Selection of Chair and Vice Chair

Commissioner Cox states that she would like to nominate Vice-Chair Ramos for the Chair position, seconded by Commissioner Curatalo.

Commissioner Cox calls for further nominations, there being none, calls for the roll call which is as follows: Ayes: Cox, Curatalo, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Lovingood

Commissioner Cox passes the gavel to newly selected Chair Ramos.

Chair Ramos states that the next item on the agenda is selection of the Vice-Chair. Commissioner Cox nominates Commissioner Curatalo for Vice Chair, seconded by Commissioner Williams.

Commissioner McCallon nominates Jim Bagley for Vice-Chair. Chair Ramos calls for a second. There being none, the nomination fails.

Commissioner Cox moves to close nominations, seconded by Commissioner Curatalo. No opposition to closure expressed.

Chair Ramos states that Commissioner Curatalo has been nominated and seconded for Vice-Chair.

Commissioner Cox moves for the nomination of Jim Curatalo as Vice-Chair, second by Commissioner Williams. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Ramos, Williams. Noes: None. Abstain: None. Absent: Lovingood

CONSENT ITEMS – STAFF RECOMMENDATION APPROVED

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 8.** Approval of Minutes for Regular Meeting of April 18, 2018
- ITEM 9.** Approval of Executive Officer's Expense Report
- ITEM 10.** Ratify Payments as Reconciled for Month of March 2018 and Note Cash Receipts

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

- ITEM 11.** Consent Items Deferred for Discussion

Executive Officer Rollings-McDonald states that there are no requests for removal from the consent calendar for discussion.

PUBLIC HEARING ITEMS:

Executive Officer Rollings-McDonald states that the next two items on the agenda relate to the final actions for the Commission's budget for the upcoming fiscal year.

- ITEM 12.** **FISCAL YEAR 2018-19 FINAL BUDGET REVIEW TO INCLUDE THE FOLLOWING:**
 - a. Consideration of (1) CEQA Statutory Exempt for Schedule of Fees, Deposits and charges Revisions; and (2) Review and Adoption of Schedule of Fees, Deposits, and Charges effective June 1, 2018

Executive Officer Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. The item has been advertised through publication in a newspaper of general circulation within the county, the *San Bernardino Sun*, as required by law.

Ms. Rollings-McDonald states that this proposed fee schedule was circulated to all cities, special districts and the County for review and comment. She states that during the review period, staff did not receive any comments so staff is recommending that the Commission take the actions outlined on page 1 of the staff report which includes making the environmental determinations. Ms. Rollings-McDonald states that the CEQA guidelines allow for making determinations and findings that a Schedule of Fees is exempt from CEQA based upon the rates and charges for meeting operational expenses do not exceed the cost of providing the service. She recommends that the Commission direct the Executive Officer to file a notice of exemption and adopt the Schedule of Fees, Deposits and Charges effective June 1, 2018. She also recommends that the Commission adopt the draft resolution reflecting the Commission's determinations.

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

ITEM 12. FISCAL YEAR 2018-19 FINAL BUDGET REVIEW TO INCLUDE THE FOLLOWING: STAFF RECOMMENDATION APPROVED

- b. Review and Adoption of Final Budget for Fiscal Year 2018-19 including the Apportionment for Independent Special Districts, Cities and the County

Executive Officer Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. The item has been advertised through publication in a newspaper of general circulation within the county, the *San Bernardino Sun*, as required by law.

Executive Officer Rollings-McDonald states that item 12b is for the adoption and approval of the budget for Fiscal Year 2018-19. She states that the proposed budget as adopted at the April hearing was circulated for review and comment by all the cities, special districts and the County. She states that the recommended actions include a declaration that the Commission is overriding its policies related to its Reserve and Contingency levels. Additionally, she states that since the FY 2018-19 budget is less than the FY 2017-18 budget, per Government Code 56381, the Commission is required to determine that the FY 2018-19 budget will accommodate the obligations of the Commission. Finally, she recommends that the Commission direct that the net operating costs be apportioned by the County Auditor and billed to all cities, independent special districts and the County.

Chair Ramos opens the public hearing for comment. There being none, Chair Ramos closes the public hearing and returns the discussion to the Commission.

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

Chair Ramos states that he has a conflict of interest for Items 13 and 14. He passes the gavel to Vice Chair Curatalo and removes himself from the dais at 10:54 A.M.

ITEM 13. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3217 AND (2) LAFCO 3217 – SPHERE OF INFLUENCE AMENDMENT FOR SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT (EXPANSION) AND HESPERIA FIRE PROTECTION DISTRICT (REDUCTION TO ZERO SPHERE OF INFLUENCE) - STAFF RECOMMENDATION APPROVED

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 Daily Press*, a newspaper of general circulation through an 1/8th page legal ad in-lieu of individual notice as authorized by law.

Executive Officer Rollings-McDonald states that this is the first of a two-step process related to discussions regarding the Hesperia Fire Protection District and the future service delivery of fire protection, emergency medical response and ambulance for that community. She states that the Hesperia Fire Protection District is a subsidiary district of the City of Hesperia. She states that a subsidiary district is a self-governed district, but that the city council sits as an ex-officio board of directors. Ms. Rollings-McDonald states that on November 1, 2016, the Board of Directors of the Hesperia Fire Protection District followed by the San Bernardino County Fire Protection District adopting resolutions initiating this sphere of influence change and submitted it to the Commission.

She states that the sphere of influence is a planning tool, and it defines the area in which an agency's services can logically be extended through the annexation process. She states that this is the first step required for annexation. She states that this proposal will expand the sphere of influence of the San Bernardino County Fire Protection District (SBCFPD) to include the Hesperia Fire Protection District territory, and designate a zero sphere of influence for the Hesperia Fire Protection District indicating that in the future the District will be dissolved.

Executive Officer Rollings-McDonald states that Government Code Section 56425 requires that the Commission make four specific determinations when considering sphere of influence changes: present and planned land uses in the area including agricultural and open space lands, present and probable need for public facilities and services in the area, present capacity of public facilities and adequacy of services that the agency to be expanded provides or is authorized to provide, and existence of any social or economic communities of interest as determined by the Commission to be relevant to the agency. All of which are outlined in the staff report.

Executive Officer Rollings-McDonald states that an additional consideration that is required for sphere of influence determinations for special districts is outlined in Government Code Section 56425 (i), and it requires that the Commission identify the level and range of services to be provided by the special districts. She states that in this case, the current range of services provided by the Hesperia Fire Protection District are fire protection, emergency medical and ambulance. She states that following completion of the proposed sphere amendments, the San Bernardino County Fire Protection District's range of services will remain unchanged, and Hesperia Fire Protection's services would be limited to administering the on-going obligations of the District's CalPERS Legacy Retirement Contract.

Ms. Rollings-McDonald states that an environmental determination has been made regarding the proposed sphere of influence change, and it is recommended that it is exempt from environmental review. She states that notice has been provided by an 1/8 page legal ad in the community, and the map and legal description meet the criteria established by this Commission.

In conclusion, she states that this is the first step in the two-step process in addressing the long-term provision of this critical service to the community of Hesperia to provide for a sustainable fire protection unit.

Executive Officer Rollings-McDonald outlines the staff recommendations in the staff report.

Vice Chair Curatalo asks if there are any questions from the Commission. There are none.

Vice Chair Curatalo opens the public hearing and asks the applicants to address the Commission.

Mr. Nils Bentsen, City Manager for the City of Hesperia, states that on this item the City of Hesperia does not have any comments. He states that their comments will come on the next item.

John Chamberlin, Deputy Chief of Administration for San Bernardino County Fire Protection District, states that on the behalf of County Fire, they will reserve comments for the next item.

Vice Chair Curatalo calls for further testimony; there being none, he closes the public hearing and asks the Commission for action.

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

ITEM 14. CONSIDERATION OF (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3218 AND (2) LAFCO 3218- REOGANIZATION TO INCLUDE ANNEXATIONS TO THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, ITS NORTH DESERT SERVICE ZONE AND APPLE VALLEY FIRE PROTECTION DISTRICT, DETACHMENTS FROM HESPERIA FIRE PROTECTION DISTRICT AND APPLE VALLEY FIRE PROTECTION DISTRICT AND DIVESTITURE OF FIRE PROTECTION, EMERGENCY MEDICAL RESPONSE AND AMBULANCE SERVICE FROM THE HESPERIA FIRE PROTECTION DISTRICT (HESPERIA FIRE PROTECTION DISTRICT AREA) – STAFF RECOMMENDATION MODIFIED AND APPROVED

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 Daily Press*, a newspaper of general circulation through an 1/8th page legal ad in-lieu of individual notice as authorized by law.

Executive Officer Rollings-McDonald states that this has been a long and arduous path to bring forward to the Commission for consideration a change in the governance and provision of fire protection services for the City of Hesperia. She states that the City was incorporated on July 1, 1988, and as part of the incorporation effort, the Hesperia Fire Protection District became a subsidiary district of the City of Hesperia. She states that following the recession of the late 1990's, and the failure of a special tax on the ballot to provide supplemental funding, the Hesperia Fire Protection District struggled to fund paramedic service within the District. Ms. Rollings-McDonald states that it was identified that annexation was the best option for Hesperia Fire Protection District and County Fire to pursue, and that action represented the first step in providing a fiscally sustainable, long-term solution to the provision of adequate fire, emergency medical and ambulance services within the City of Hesperia and to the larger Hesperia community.

Ms. Rollings-McDonald states that the Commission is obligated to look at the four major areas of consideration: boundaries, land use, service and financial considerations, and

environmental. She states that the staff report outlines the staff's analysis of each of these issues.

Boundaries: The staff has proposed the modification of the boundary to include a realignment along the Mojave River. This has been reviewed with the County, Hesperia FPD and the Apple Valley Fire Protection District, with all concurring. The proposal anticipates the transfer of ambulance authority to County Fire, and staff has outlined its concern that EOA12A will have an area east of I-15 which is only accessible through EOA 17 (County Fire), and there may be a more efficient method for service to this area through a boundary transfer. The proposal will transition the operation of CFD 94-01 from Hesperia FPD to County Fire. It is LAFCO staff's recommendation that a condition be included which requires that the Future Annexation Area for CFD 94-01 be expanded to include the whole of the Hesperia community (the City of Hesperia sphere of influence) to require that all new construction be included in the CFD to provide for funding of the service. Ms. Rollings-McDonald states that throughout the process the City of Hesperia has objected to the inclusion of this recommendation; however, it is the staff's position that augmented funding is necessary. With these determinations made, staff takes the position that the boundaries, as modified, provide for a definite and certain boundary for all agencies, both successor and continuing service provider.

Land Use: Ms. Rollings-McDonald states that LAFCO 3218 will have no direct impact upon land use decisions within the City of Hesperia.

Service Considerations: Ms. Rollings-McDonald states that the proposal before the Commission is transfer the fire authorities from the Hesperia FPD to County Fire and its North Desert Service Zone, but not to dissolve the Hesperia Fire Protection District which is the typical proposal presented to the Commission. She states that it is proposed that the Hesperia FPD divest all its services except for administration of the remaining legacy retirement obligations with CalPERS. Ms. Rollings-McDonald states that the Plan for Service states that it is the intent of County Fire to meet the National Fire Protection Association recommendation of a first unit response at 5 minutes and first alarm at 8 minutes. The Plan identifies the use of the existing County Station 22 (Spring Valley Lake) to assist in this coverage. Ms. Rollings-McDonald provides the service information as outlined in the staff report.

Financial Effects: Ms. Rollings-McDonald outlines the unique circumstances related to the financial implications of the approval of LAFCO 3226, including, but not limited to: the transfer of property tax from Hesperia FPD to County Fire, its North Desert Service Zone and City of Hesperia and the RDA contracts; LAFCO staff updated the Revised Fiscal Impact Analysis with audit data available for FY 2016-17; the requirement for contracts between Hesperia FPD and City of Hesperia for assumption of payment of unfunded retirement obligations; the creation of a Section 115 Irrevocable Trust; and the return of \$750,000 to the City of Hesperia in the first year of operation as a fund balance for payment of retirement costs, etc. Executive Officer Rollings-McDonald states that after much discussion with legal counsel, it was necessary to address the transfer of property tax revenues for LAFCO 3218 due to its unique and nuanced changes. Ms. Rollings-McDonald states an additional element which supports a finding of financial sustainability is the contract between the County and County Fire for providing a defined level of service and the supplemental funding to support that service level. Ms. Rollings-McDonald outlines the range of conditions included in the staff's recommendation to assure financial sustainability.

Environmental: The Commission is the lead agency for environmental assessment of the change of organization. LAFCO's environmental consultant, Tom Dodson of Tom Dodson and Associates, has recommended that the proposal is statutorily exempt from environmental review on the basis that the reorganization is transferring fire and emergency medical response from one entity to another which will not result in any physical impacts on the environment.

Executive Officer Rollings-McDonald states that the only comments received related to the proposal were those from the City of Hesperia in reference to the proposed staff condition on CFD 94-01.

Executive Officer Rollings-McDonald outlines the staff recommendations in the staff report.

Vice Chair Curatalo opens the public hearing and calls for comment from the proponents.

Nils Bentsen, City Manager for the City of Hesperia congratulates Executive Officer Kathleen Rollings-McDonald and staff for their hard work. He states that when it comes to finances, the citizens will receive the same level of service currently going forward in the short-term. He states that in the long-term, services will improve over time. He states that the expansion of 94-01 was never intended by the City and was not the direction given by the city council members when initiating the application.

John Chamberlin, Deputy Chief of Administration for County Fire, co-applicant for the proposal, states that this partnership through annexation is in the best interest of all parties involved. Commissioner Cox states she knows that the City and County Fire have a good working relationship. She asks Chief Chamberlin if he concurs with the City's position that 94-01 should not be expanded. Chief Chamberlin states that they have built the framework for this future expansion and service delivery without having the expansion of 94-01.

Commissioner Farrell states that if there is apparently 27% vacant land, development of that land could result in a significant increase in fire protection. He asks if County Fire is confident they will have the revenue source to provide the extra service. He states that he was under the assumption that this annexation was to also address the expansion of 94-01, to which Chief Chamberlin states that they are comfortable with the existing service level and revenue stream. He states that using the County assets on a regional basis, County Fire can cover more than that for now.

Vice Chair Curatalo calls the next speaker.

Bill Holland, Mayor Pro Tem for the City of Hesperia, urges the Commission to vote approval of what is before them with one caveat to not expand 94-01. Commissioner Cox states that if she understands, condition (i) as it is written, is not what the City wants, and the City prefers that it be modified to exclude the expansion.

La Trici Jones, resident of Hesperia, states that she supports the staff recommendation to expand 94-01.

Vice Chair Curatalo asks if there are more speakers wishing to address the Commission. There are none.

Vice Chair Curatalo closes the public hearing and returns the matter to the Commission for discussion.

Commissioner Cox states that her only issue with the proposal is the expansion of 94-01 and the determination that neither of the applicants for the change requested the condition imposition.

Commissioner Cox moves the staff recommendation with the modification of condition “1” to exclude an expansion of 94-01, Second by Commissioner McCallon. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos

INFORMATION ITEMS:

ITEM 15. LEGISLATIVE UPDATE REPORT -- ORAL REPORT

Executive Officer Rollings-McDonald states that due to time, she would like to state that there is a Legislative Report at the dais for each Commissioner, and the only notation she has is regarding AB 2258, the CALAFCO sponsored legislation which is now opposed by CSDA.

ITEM 16. EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Rollings-McDonald states that there are no new proposals, and the next hearing is June 20, 2018. At that hearing, the Commission will consider the East Valley Water District Proposal.

ITEM 17. COMMISSIONER COMMENTS

The Commissioners congratulate and welcome Ms. Louisa Amis to the Commission.

ITEM 18. COMMENTS FROM THE PUBLIC

There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 12:49 P.M

ATTEST:

LA TRICI JONES
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES RAMOS, Chair

**DRAFT - ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
HEARING OF JUNE 20, 2018**

REGULAR MEETING

9:00 A.M.

JUNE 20, 2018

PRESENT:

COMMISSIONERS: Louisa Amis, Alternate Robert Lovingood
 Jim Bagley Larry McCallon
 Kimberly Cox Janice Rutherford, Alternate
 James Curatalo Acquanetta Warren, Alternate
 Steven Farrell, Alternate Diane Williams

STAFF: Kathleen Rollings-McDonald, Executive Officer
 Clark Alsop, LAFCO Legal Counsel
 Samuel Martinez, Assistant Executive Officer
 Michael Tuerpe, Project Manager
 Jeffrey Lum, LAFCO Analyst
 La Trici Jones, Commission Clerk
 Bob Aldrich, LAFCO Consultant
 Holly Whatley, Special Legal Counsel

ABSENT:

COMMISSIONERS: James Ramos

STAFF:

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:05 A.M. – NORTON REGIONAL EVENT CENTER**

ITEM 1. PUBLIC COMMENTS ON CLOSED SESSION

No comments provided

**ITEM 2. CONVENE CLOSED SESSION – CONFERENCE ROOM ADJACENT TO
EVENT CENTER AT :**

Conference with Labor Negotiators per Government Code Section 54957.6:

Agency Designated Negotiator: Clark Alsop, LAFCO Legal Counsel

ITEM 3. RECONVENE PUBLIC SESSION AT 9:35 A.M.

Announcement on Closed Session

LAFCO Commission's Counsel Clark Alsop states that the Commission met in closed session as listed on the agenda for labor negotiations and no reportable action was taken.

**ITEM 4. PRESENTATION OF RESOLUTION OF APPRECIATION TO CLARK ALSOP
LAFCO LEGAL COUNSEL FOR 43 YEARS OF SERVICE TO SAN
BERNARDINO LAFCO**

Vice-Chair Curatalo reads the Resolution and states that is has been a true honor to have worked with Clark Alsop.

George Spiliotis, Executive Officer for Riverside LAFCO states that on behalf of the Executive Officers from the Southern Region, whom have worked with Clark over the years, he expresses his appreciation and presents a gift of chocolate.

Clark Alsop, LAFCO Legal Counsel states that he truly appreciates what has been done for him. He states that he has enjoyed his 43 years of working for the Commission because LAFCO is a wonderful government activity that attempts to balance communities, individuals and the needs of providing services. Mr. Alsop states that he has been very pleased to work for the Commission.

CONSENT ITEMS – STAFF RECOMMENDATION APPROVED

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 5a.** Approval of Minutes for Special Meeting of May 15, 2018
- ITEM 5b.** Regular Meeting of May 16, 2018 **(CONTINUED TO THE JULY 18, 2018
HEARING)**
- ITEM 6.** Approval of Executive Officer's Expense Report
- ITEM 7.** Ratify Payments as Reconciled for Month of April 2018 and Note Cash Receipts
- ITEM 8.** Approval of Proposal to Install an Access Control System for the Front Door of the LAFCO Office
- ITEM 9.** Consent Items Deferred for Discussion

Commissioner McCallon states he wishes to discuss Item #8. His question is the he assumes each Commissioner will be provided a key card to allow for entrance though it was not identified in the staff report.

Executive Officer Rollings-McDonald states that each Commissioner will be given a key-card to come into the office and everyone else will need to be announced.

Commissioner Cox moves approval of the staff recommendation, Second by Commissioner McCallon. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Williams and Rutherford. Noes: None. Abstain: Commissioner Lovingood abstains from Item 5a as he was not in attendance. Absent: Ramos (Rutherford voting in his stead)

PUBLIC HEARING ITEMS:

ITEM 10. REVIEW AND APPROVAL OF CONTRACT WITH SAMUEL MARTINEZ AS EXECUTIVE OFFICER FOR THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY EFFECTIVE JULY 1, 2018 - STAFF RECOMMENDATION APPROVED

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. The item has been advertised through publication in a newspaper of general circulation within the county, the *San Bernardino Sun*, as required by law.

Executive Officer Rollings-McDonald states that this item outlines the proposed contract for Samuel Martinez's employment as Executive Officer and provides a copy for the public for review. She states that it provides for Sam's employment to begin July 1, 2018 and establishes his salary, contract terms and severance policy. Ms. Rollings-McDonald states that the staff recommendation is for the Commission to approve this contract.

Commissioner Cox questions how this contract relates to other Executive Officer contracts as far as the salary range, to which Ms. Rollings-McDonald responds that the salary range is in keeping with the general salary levels within the southern region. She states that Sam comes to this position with more experience than many that are currently occupying the position except for George Spiliotis from Riverside.

Vice-Chair Curatalo asks if there is any public comment on this item; there being none closes the public hearing and returns the matter to the Commission.

Commissioner Bagley moves approval of staff's recommendation, Second by Commissioner Lovingood. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Williams and Rutherford. Noes: None. Abstain: None. Absent: Ramos (Rutherford voting in his stead).

Vice-Chair Curatalo congratulates Sam on behalf of the Commission. He states that it was a competitive process and he performed very well. Mr. Curatalo states that Sam's work up to this point has been recognized and this Commission stands unanimously in wishing Sam the very best as they have high hopes as he leads the agency into the future.

ITEM 11. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3225; AND (2) LAFCO 3225 – SPHERE OF INFLUENCE AMENDMENT FOR THE CITY OF LOMA LINDA (REDUCTION) AND THE CITY OF COLTON (EXPANSION)—STAFF RECOMMENDATION APPROVED

Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. The item has been advertised through publication in a newspaper of general circulation within the county, the *San Bernardino Sun*, as required by law. Individual notice was provided to landowners and registered voters within 1,350 feet surrounding the area as required by Commission policy and State law.

Mr. Martinez states that this proposed sphere amendment has been submitted for the purpose of removing properties from the sphere of influence of the City of Loma Linda and adding these properties to the sphere of influence of the City of Colton. He states that the property owner that initiated the application requested the sphere amendment since the City of Loma Linda is unable to provide services to their properties. He states that the City of Colton is more than able to provide the full range of its services to these properties.

Mr. Martinez states that a sphere of influence is defined as a planning boundary that designates the probable future physical boundary and service area of an agency. He states that changing the sphere of influence does not change the jurisdictional boundaries for the underlying cities. He states that the sphere amendment as submitted by the applicant is for 3 parcels, encompassing approximately 209 acres. Mr. Martinez states that the Cities of Loma Linda and Colton both submitted letters of support for the sphere of amendment submitted by the applicant.

He states that LAFCO staff is proposing a modification to the sphere to include the properties immediately south of the proposed sphere amendment. He states that this includes the area in and around Scotch Lane, which is approximately 163 acres. Mr. Martinez states that it is the Commission's policy that when changing a sphere of influence, the Commission is allowed to modify an area on the basis of including the area within the sphere of influence of the agency best able to provide the services required or excluding it from the sphere of influence of an agency on the basis of its inability to serve. He states that due to the location of the expansion area, it is LAFCO staff's position that not only can the City of Loma Linda not provide services within the proposed sphere amendment proposed by the applicant; it also cannot provide services within the additional area.

Mr. Martinez states that staff is recommending that the Commission modify LAFCO 3225 to include the additional area that is being proposed. He states that the City of Loma Linda has submitted a subsequent letter in support of the modified boundary; however, the City of Colton has indicated that they are not supporting any expansion other than what has been proposed by the applicant. He then reiterates why staff stands by its recommendation to modify the proposal.

Mr. Martinez states that the staff report outlines the reasons why the sphere of influence amendment does not require a service review pursuant to Government Code Section 56428; therefore, staff is recommending that the Commission determine that LAFCO 3225 does not require a service review.

Mr. Martinez also noted that the review of LAFCO 3225 is statutorily exempt from CEQA. He indicates that as a planning boundary, the amendment of spheres do not have the potential to alter the physical environment; therefore, the proposal is exempt.

Mr. Martinez states that individual notice was provided to land owners and registered voters within the area. He states that there were 94 landowners and registered voters within the modified study area and in the surrounding area there were 551 notices provided in San Bernardino County and 153 notices in Riverside County. He states that staff received a number of letters and emails relating to the concerns of traffic, impacts on development and public safety which are at the dais for the Commission. He states that those letters will be added to the website after this hearing. Mr. Martinez states that since this is a sphere amendment, there is no jurisdictional change nor is there any approval for development at this time.

Mr. Martinez states that for these reasons and those identified in the staff report, Staff is recommending approval of LAFCO 3225 as modified by taking those actions outlined on pages 1 and 2 of the staff report

Vice-Chair Curatalo asks the Commission if there are any questions

Commissioner Cox asks if the Northern boundary that is diagonal follows a roadway or easement; to which Assistant Executive Officer Martinez states that it is a parcel boundary and a fault line.

Commissioner McCallon asks that for the additional area that staff is proposing be included, who is providing services for the area now, to which Mr. Martinez responds that water is through wells and wastewater is through septic tanks with the City of Colton providing fire protection and law enforcement under mutual/automatic aid agreements.

Commissioner Farrell asks if the area that is being proposed is part of the South Hills preservation area, to which Mr. Martinez responds that the area that is being proposed is within the South Hills but not the preservation area. Commissioner Farrell questions the crosshatched area where they have a preservation, to which Mr. Martinez states that the crosshatched area are lands owned by the City of Loma Linda and have been set aside for permanent protection. Commissioner Farrell asks what the current zoning of the area is, to which Mr. Martinez states that the land use designation for the area is South Hills Preservation. Commissioner Farrell asks if that the area we are changing is part of the Preservation, to which Mr. Martinez responds that it is called South Hills land use designation, and the area across from it is called South Hills Preservation.

Executive Officer Rollings-McDonald states that the South Hills area allows for limited development while the Preservation area does not.

Vice-Chair Curatalo opens the public hearing and calls upon the property owner representative to address the Commission.

David Saunders, attorney for the applicant University Realty, addresses the Commission. He states that University Realty is associated with Arizona State University and is an entity that develops real property providing monetary value to Arizona State University for its educational pursuits. He states that he would like to thank Mr. Martinez and the LAFCO staff for a wonderful

job on the staff report. Mr. Saunders states that he wants to explain what this SOI is and what it is not. Mr. Saunders states that it is a recognition of the existing reality, as noted by Mr. Martinez, this area is geographically isolated from greater Loma Linda; it cannot be served by greater Loma Linda and cannot be served by greater Loma Linda in the future. He states that this area is better served by the City of Colton. Mr. Saunders states that the approval is not a change to the jurisdiction over this property. He states that this is a change in LAFCO's map for planning purposes but not a change in jurisdiction. He states that he is here to ask for the Commission's approval, this is a straight-forward application that makes sense and the Cities of Colton and Loma Linda has taken up this sphere of influence amendment as to our property and fully support it.

Vice-Chair Curatalo calls upon the City representatives to address the Commission.

Dusty Rigsby, Mayor of Loma Linda states that for clarification the city council has taken a position on University Realty's property but has taken "no" position as it has not been presented the option of taking a position on the expansion Scotch Lane property. He states that the Commission has received a City of Loma Linda staff letter supporting the change in sphere of influence for Scotch Lane and it did not emanate from the city council. Mr. Rigsby states that the city council of Colton has taken a vote opposing the Scotch Lane sphere of influence change.

Commissioner Farrell questions his understanding that the Loma Linda Council did not consider taking a position. Mayor Rigsby states, "no" as it did not come up. He states that it has been a long-standing belief by the staff at the City of Loma Linda agreeing with your staff that this is an area where service cannot be provided; however, it just never came up for political consideration.

Richard De La Rosa, Mayor for the City of Colton states that he has worked extensively with University Realty to address all the needs and vision that their project may or may not bring. He states that they have reached out to the residents in Reche Canyon along with some of the County residents and there is always going to be some concerns and draw-backs but the vision in Colton is to bring these entities together because this area affects a lot of travelers and visitors that use Reche Canyon Road. Mayor De La Rosa states that he is hoping in the future University Realty is able to bring all these entities together to make a project that has for years not been looked at extensively by these jurisdictions. He states that Colton is in support of the sphere of influence amendment but realizes there is a lot more work to do but would like support for the sphere of influence amendment.

Commissioner McCallon states that he is just curious, as to why the council decided not to support the staff's recommendation on the additional area and the reasoning, to which Mayor De La Rosa states that it was not discussed. He states that as far as Scotch Lane; this is a new idea. He states that Colton can serve any area out there, but would like to take it in baby steps so that the residents of the County and Reche Canyon can all be involved. He states that the expanded recommendation by LAFCO has not been looked at. He states that he cannot speak for the council, just for himself as the Mayor.

Commissioner Farrell asks Mayor De La Rosa since he has been working with the owner of the property, has there been a project described? Mayor De La Rosa states that there have been two projects described to them that he believes with planning, the area can be improved with

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traffic safety, fire safety and public works if the right jurisdictions come together and do an assessment on what needs to happen.

Vice-Chair Curatalo opens public comment and calls for the first speaker.

Allen Lenaburg, resident of the City of Loma Linda, states that this is a way to circumvent the voters will and is in opposition to the staff recommendation.

Chase Miller owns a house in Reche Canyon. He states that he has to leave an hour early for work due to the traffic. He is in opposition to the staff recommendation.

Mark Russell states that all of this is to eventually annex the area. He is in opposition to the staff recommendation.

Jill Bednorz lives on Prado Lane and is in opposition to the staff recommendation.

Annabelle Lewis is a 15 year old resident of Reche Canyon and states that the traffic is already horrible. She is in opposition to the staff recommendation.

Elmer Canlas states that he used to be a resident of Loma Linda and is a new resident of Colton. He states that during rush hour it takes him up to 45 minutes to travel through Reche Canyon, outside of rush hour, it only takes him 15 minutes to get to his home. He is in hopes that future development will mitigate the traffic issues.

Jack Woods, Mayor Pro-Tem for the City of Colton states that he has been taking measures to relieve traffic in this area and currently there are 18,700 cars using Reche Canyon Road. He states that there are programs to help with traffic problems and it will take time to accomplish these things.

Lisa Lenaburg states that she has lived on Scotch Lane for 30 years. She states that when there were issues with fire or police needs, it was Loma Linda that responded. She states that the City of Colton has never responded to her area. She states that she is opposed to adding Scotch Lane to the Sphere of Influence.

David Sauders, Representative for the applicant, states that he wants to clarify the statement from Mayor Rigsby. He states that the city council for Loma Linda has given a letter of support of the original application. He states that the issue that Mayor Rigsby raised is with Scotch Lane only.

Vice-Chair Curatalo closes the public hearing and calls upon the Commission for further discussion.

Vice-Chair Curatalo asks LAFCO Environmental Consultant Tom Dodson within the scope of the decision for LAFCO Commission to comment on some of the environmental concerns.

Mr. Tom Dodson states that in this particular case, the Commission is being asked to approve one item, which is the sphere of influence modification. He states that there are implications from the sphere of influence modification, but it does not have any specific items or proposals that can be evaluated at this time. Mr. Dodson states that it would be speculative at this stage

to do so. He states that from that standpoint on the action that the Commission is being asked to take, there are no environmental implications at this point in time.

Assistant Executive Officer Samuel Martinez states that he would like to clarify that some of the letters received could not be verified as to their residence. He states that three were received from the Scotch Lane area, three from Riverside County, and four from the Reche Canyon area and six that could not be verified. He states that in the staff report there was a description of the tentative tract that was previously approved by the City of Loma Linda in 1990 this is the area immediately south of Scotch Lane to the Riverside County line and it was anticipated to be served by the City of Colton for water and sewer.

Commissioner Williams states that we have heard from both city councils that the amendment part was not put before them for approval or comment. She states that she is surprised that we did not ask them before we moved ahead with considering the item. Mr. Martinez responds that LAFCO staff did review this matter at the Departmental Review Committee meeting with the applicant and affected agencies. He states that a letter requesting the official position on the amendment area was forwarded to both cities and it was anticipated by LAFCO staff that the position would be coming from the city councils. He states that when staff received the response, it was assumed to be coming from the city councils, but apparently it was not.

Commissioner Williams states that she is hesitant to move forward without approval from one or both.

Vice-Chair Curatalo asks Executive Officer Kathleen Rollings-McDonald how she would respond to this concern.

Ms. Rollings-McDonald states that the issue was presented to the representatives from both agencies and in the past when the area was annexed to Loma Linda as the entrance to the proposed development on the southern portion of Scotch Lane it was clearly identified that Colton would be providing service there. She states that this was in the early 1990's before Government Code Section 51633 was put in place. She states that there was an acknowledgment that service could not be provided to that area. She states that for fire protection, there are mutual agreements and the assumption is; if you have mutual agreements, it has been addressed by both city councils. She states that the sphere of influence is a planning tool especially when the territory is currently apart of another city and you are transitioning from one city to another. She states that the City of Colton could not include the territory of this area in its land-use planning, as it had no direct relationship to it. So the sphere of influence does allow them to move forward in addressing those concerns. She states that her response is the difficulty in serving this area has been there for more than 30 years.

Commissioner McCallon states that contrary to what Commissioner Williams is saying, he is comfortable with the testimony provided by both Mayors of the cities and the elected representative for that division in Colton, although formal action had not been taken by the councils. He states that the representatives that have spoken today clearly state that there is no opposition from them.

Vice-Chair Curatalo states that as we discuss this, there are five recommendations from staff for consideration or approval. He states that at this time he will entertain more discussion or a motion to approve recommendations as provided.

Discussion continues.

Commissioner Lovingood moves approval of the staff recommendation, Second by Commissioner Cox. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, Lovingood, McCallon, Williams and Rutherford. Noes: None. Abstain: None. Absent: Ramos (Rutherford voting in his stead).

Commissioner Warren leave the dais at 10:30 A.M.

ITEM 12. A. CONSIDERATION OF: FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY THE SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT FOR THE STERLING NATURAL RESOURCE CENTER (SCH NO. 2015105058), AS A CEQA RESPONSIBLE AGENCY FOR LAFCO 3226; (2) ADOPTION OF FACTS, FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3226 – REORGANIZATION TO INCLUDE ACTIVATION OF THE EAST VALLEY WATER DISTRICT LATENT SERVICES TO INCLUDE WASTEWATER TREATMENT, RECLAMATION, DISPOSAL, AND RECHARGE OF RECYCLED WATER – STAFF RECOMMENDATION APPROVED

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and 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 San Bernardino Sun*, a newspaper of general circulation through an 1/8th page legal ad in-lieu of individual notice as authorized by law.

Executive Officer Rollings-McDonald states that since 1976 this Commission has had Special District representation seated upon it. She states that it is an optional choice for each additional LAFCO. She states that in doing so in 1976 it was a requirement for all Special Districts to file their active functions, those being performed at that time under their principal act. She states that this Commission was then responsible for providing a listing of the active functions and services for each of those Special Districts and any other service was deemed to be a latent power under their principal act requiring further action of the Commission to activate to begin providing the service. Ms. Rollings-McDonald states that today we are talking about the activation of a service for the East Valley Water District (EVWD).

She states that in October 2014, LAFCO staff was apprised of the development of the Sterling Natural Resource Recovery Center (hereafter SNRC) and EVWD staff became aware of the limitation on their authorized services under their sewer function. She states that this meeting led to a number of very significant issues over the ensuing three years. Ms. Rollings-McDonald states that the staff report identifies a number of these issues. She states that in response to discussions with LAFCO staff, the EVWD and the San Bernardino Valley Municipal Water District established what is commonly known as the framework agreement and joint contract to develop SNRC and during this process, there was litigation challenging the Environmental Impact Report.

Executive Officer Rollings-McDonald states that the final set of litigation was resolved through a settlement agreement between Valley District, EVWD and the City of San Bernardino. She states that as a part of that settlement agreement it outlined a process and requirement that EVWD pursue the activation of its wastewater authority to provide for the treatment of wastewater, sewage reclamation and disposal and recharge of recycled water. She states that on February 14, 2018 the EVWD board of directors adopted a resolution initiating that process. She states that today, we are here to discuss that proposal. Ms. Rollings-McDonald states that the activation of a function or service for a Special District, by statute is considered a change of organization. She states that there are four primary responsibilities for this Commission to review: (1) Boundaries, (2) Land Use, (3) Service and Financial Considerations, and (4) Environmental considerations.

Ms. Rollings-McDonald states in regard to boundaries, the activation of this service will be for the entirety of the boundary of the East Valley Water District. She states that as a part of the settlement agreement, there is a request to transfer responsibility for flows between the City of San Bernardino Municipal Water Department and East Valley Water District to provide for the most effective and efficient means for the delivery of wastewater treatment which has been agreed to by all parties.

She states that for land use, this is not a typical land use decision because this will not impact the land use decisions, however, as the plan for service identifies, there are existing approvals by the existing land use authorities which propose an additional 5,000 residential units. Those additional units need treatment capacity and approval of this proposal will allow for that to move forward.

Ms. Rollings-McDonald states that the Commission is obligated to make the determination that this proposal will be financially sustainable. She states that Government Code Section 56824.12 sets forth the criteria that the plan for service must include. She states that the most critical element, in the staff's opinion for this proposal, was an identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers. She states that staff has reviewed the Plan for Service submitted by the EVWD that clearly represents an answer to each of these issues. She states that in reviewing the presentation of the Fiscal Impact Analysis for the wastewater treatment operation, LAFCO staff had three concerns: (1) The Revenue projections include funds shown as "LRP" which is the Local Resources Investment Program anticipated commencing through Valley District; (2) The source of funding for the \$5,500,000 mandatory debt reserve for the State Revolving Fund loan; and (3) The Fiscal Impact Analysis spreadsheet was unclear on the point that there was a restricted reserve required to be maintained for the debt service.

Executive Officer Rollings-McDonald states that in regard to the LRP funding, staff questioned the funding source on this program because it is not a currently active program. She states that the San Bernardino Valley Municipal Water District General Manager Douglas Headrick, in a letter dated May 16, identifies their support for retention of this in the fiscal impact analysis as they are working towards finalizing this program and this was included in the application for the

State Revolving Fund Loan. She states that staff believes the position of Mr. Headrick provides for adequate clarification to retain this revenue stream in the calculation.

Ms. Rollings-McDonald states that staff questioned the identification of the \$5,500,000 in reserves for debt service. She states that there was no identification in the materials as to the source of those funds. She states that staff received an email response from EVWD stating that funding stream is from a part of the settlement agreement where an eight million dollar fund balance would be transferred to EVWD from the City of San Bernardino Municipal Water Department providing the revenue stream for the initial \$5,500,000. Ms. Rollings-McDonald states staff is satisfied with the response.

Executive Officer Rollings-McDonald states that in order for staff to determine that the \$5,500,000 reserve be maintained for the entire life of the loan, staff has taken and recalculated the fund equity balance available for use. This modification clearly shows there is a significant resource available for the EVWD [MT1] to look to in case of an unforeseen event.

Executive Officer Rollings-McDonald states that it is staff's opinion with these issues resolved; the Commission has the ability to make the determination that the activation of the wastewater treatment functions and services proposed by LAFCO 3226 are financially sustainable.

Ms. Rollings-McDonald states that the crux of staff's concerns related to the service activation has been the transfer from the City of San Bernardino Municipal Water Department to the EVWD treatment operations since the first discussions of this proposal in 2014. She states that the actions that were taken as a function of the settlement agreement, identified in the plan for service as mitigation measures, clearly address those concerns and clearly state that the City of San Bernardino will remain whole in its operations for its constituents. She states that the modification of the Joint Powers Agreement for service delivery, the transfer of ownership of the East Trunk Sewer Line, EVWD and the City of San Bernardino working together to adopt a contractual agreement for the City to continue treating solids originating from EVWD and development of a habitat conservation plan all contribute to the Commission's ability to make this determination. She states that the final concern staff raised was regarding the alternative use of the City of Redlands spreading basins. She states that there was no correspondence or assurance in the material from the City of Redlands in their position on this use; however, in response to staff's request for clarification, the City submitted a letter dated May 21, 2018 outlining its participation in the EIR process, its continuing negotiations with the EVWD to establish the basis for use of its spreading basins, and its continuing support for the SNRC. She states that based on all the answers provided throughout this process, and the information contained in the Plan for Service; the Commission can make the determination that the approval of LAFCO 3226 will not impair the ability of the City of San Bernardino and its Municipal Water Department to continue to provide its range and level of services in regards to wastewater treatment, reclamation, and disposal, therefore, LAFCO staff is recommending that the Commission approve LAFCO 3226.

Commissioner Lovingood leaves the dais at 11:04 A.M.

Executive Officer Rollings-McDonald states that there are a significant number of environmental considerations. She states that the Commission is a responsible agency in regard to the EIR prepared for the SNRC and certified by the courts. She states that LAFCO's Environmental Consultant, Tom Dodson of Tom Dodson and Associates has reviewed the Valley District's Certified Final EIR and has indicated that it is adequate for the Commission's use as a responsible agency. Ms. Rollings-McDonald states that there is a slight nuance in regards to this consideration. She states that staff is proposing that the Commission include a condition of approval that relates to the responsibility for implementation of the Mitigation Monitoring and Reporting Program to transfer that from Valley District to EVWD and that EVWD be required to implement all mitigation measures.

Executive Officer Rollings-McDonald states in conclusion that LAFCO law in Government Code Section 56001, states that the purposes of LAFCO includes the direction that "priorities be established by weighing the total community service needs against the total financial resources available for securing the community service; and that the community service priorities are required to reflect local circumstances, conditions, and limited financial resources". She states that it is the position of LAFCO staff that LAFCO 3226, as presented to the Commission, and considered in the staff report represents those priorities. Therefore, the Commission can make all the determinations required by LAFCO law and Commission policies. She states that the settlement agreement reached during the court process balanced the needs for reclamation of water against the needs to make sure that the City of San Bernardino Municipal Water Department could continue to provide the same level of services in the future to its constituents. She states that since the SNRC will benefit the residents of the East Valley Water District, it will be financed by the residents of the EVWD, the Board of Directors of the EVWD should have the responsibility for its operations and its finances. Therefore, staff recommends approval of LAFCO 3226 as presented as outlined on Pages 1 through 3 of the staff report including the adoption of LAFCO Resolution No. 3268 setting forth the Commission's findings and determinations concerning this proposal.

Executive Officer Rollings-McDonald states that at the Commission's dais is a letter from Mr. Serrano expressing his concerns regarding this project. Ms. Rollings-McDonald states that many of the concerns identified in the letter relate to the development of the SNRC; while LAFCO 3226 is related to the ability to provide service not the development of SNRC.

Vice-Chair Curatalo asks if there are questions from the Commission.

There are none.

Vice Chair Curatalo opens the public hearing and calls upon the East Valley Water District.

John Mura, General Manager and CEO of East Valley Water District, states that this has been contentious process and has taken a long time, but must admit that as a result of staff's efforts and the Commissions efforts, there is a silver lining and that it provides for a better project and the relationships will be strengthened through this process. He states that this project has either met or exceeded every environmental obstacle. He continues that the project not only benefits the east valley region, but is a cornerstone of Habitat Conservation Plan being implemented by

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Valley District that will facilitate other water improvement projects. He states that it's a huge investment for the City of Highland that is desperate for economic help and we are excited to hopefully transform that portion of the community along with the Inland Valley Development Agency and the airport. He states that they are excited to create 10 million gallons a day of drought proof water supply, not only to benefit EVWD rate payers, but the entire region and everybody that produces water out of the Bunker Hill basin. He states that he looks forward to the Commission's favorable consideration for the project.

Robin Ohama, the acting General Manager of the San Bernardino Municipal Water Department, states that they are here to support the Sterling Project based upon the settlement agreement that was achieved. She states that they have worked very closely with the EVWD as well as the San Bernardino Valley Municipal Water District and looks forward to collaborating in the future.

Vice-Chair Curatalo calls for public comment.

Mark Falcone, a resident of the City of Highland and ratepayer for the EVWD for 25 years. He states that he is in support of the proposal for EVWD.

Fred Yauger states that he had written a letter to the Executive Officer on June 8, and states that before he knew very little about what the proposal was, after he was educated by going down to Santa Ana he realized what a great project this would be for the San Bernardino Valley. Mr. Yauger is in support of this proposal.

Jane Usher states that she is here today as a resource to answer any questions. She states that she thanks the LAFCO staff for working diligently on this project.

Anthony Serrano, a property owner and rate payer of EVWD in excess of 27 years, states that everyone has done a great job, but the problem is the draft engineering report of June 2017. He states that nobody in the EVWD will get the benefit of the recycled water. He is in opposition of the proposal.

James Imborski, a resident of Highland and a ratepayer of EVWD for over 40 years, states he is in support of this project.

Wayne Brown states that he agrees with Mark, Fred and Jim. He is in support of this project and supports the staff recommendation.

Jim Ciminio states that there is a need for the Sterling Project, as human beings, we need this project.

Jody Scott, a resident of Highland since 1956, states she supports this project 100%.

Vice-Chair Curatalo closes the public hearing and asks the Commission for further comment or action.

Commissioner McCallon states that this project is vital to the City of Highland for its future development. He states that it is vital to recharging the Bunker Hill Basin and will also benefit

the community in terms of education. Commissioner McCallon states that he supports the proposal as well as the City of Highland and will move the staff recommendation.

Commissioner McCallon moves the staff recommendation, Second by Commissioner Cox. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, and Williams. Noes: None. Abstain: None. Absent: Lovingood and Ramos

ITEM 12. B. LAFCO SC#423 – REQUEST FOR EXEMPTION FROM PROVISIONS OF GOVERNMENT CODE SECTION 56133 FOR SETTLEMENT AGREEMENT PROVISIONS FOR EAST VALLEY WATER DISTRICT AND CITY OF SAN BERNARDINO /SAN BERNARDINO MUNICIPAL WATER DEPARTMENT EXCHANGE OF WASTEWATER SERVICE TERRITORIES – STAFF RECOMMENDATION APPROVED

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and made a part of the record by its reference here. Ms. Rollings-McDonald states that notice of the Commission's consideration of this request for exemption was published in *The San Bernardino Sun*, a newspaper of general circulation through an 1/8th page legal ad in-lieu of individual notice as authorized by law.

Executive Officer Rollings-McDonald states that this proposal relates to the exchange of flows that was alluded to in the previous discussion of LAFCO 3226. She states that this is part of the settlement agreement and the District has requested that the Commission determine that this contractual relationship is exempt from Government Code Section 56133, the out-of-agency service agreement provisions. She states that LAFCO staff has reviewed and made all the determinations required by Government Code Section 56133(e) and have provided them in the staff report.

Ms. Rollings-McDonald states that in addition, during the wastewater service review, staff became aware of an issue for service by the EVWD to the territory at the corner of Alabama and Third Street. She states that in 2010, the City of San Bernardino requested that EVWD provide water service to the Wyle Labs site and the EVWD has provided water service since that time but no one requested the exemption approval. She states that staff is asking that the Commission modify SC #423 to also include the exemption to include the service delivery to Wyle Labs.

Executive Officer Rollings-McDonald states that based on the determinations outline in the staff report, staff is recommending that the Commission determine that pursuant to Government Code Section 56133(e), the exchange/commingling of wastewater flows and the delivery of water service agreements between EVWD and the City of San Bernardino Municipal Water Department and the provision of water service to the property within the IVDA boundaries used for the Wyle Labs are exempt from further review and approval by the Commission.

Vice-Chair Curatalo asks for discussion from the Commission.

There are none.

Vice-Chair Curatalo opens the public hearing and calls for public comment.

There are none.

Vice-Chair Curatalo closes the public hearing and asks the Commission for action.

Commissioner McCallon moves the staff recommendation, Second by Commissioner Cox. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon and Williams. Noes: None. Abstain: None. Absent: Lovingood and Ramos

Executive Officer Kathleen Rollings-McDonald states that LAFCO's Legal Counsel Clark Alsop is conflicted on the next item; therefore, the Commission has special counsel, Ms. Holly Whatley.

Commissioner Rutherford returns to the dais.

DISCUSSION ITEMS:

ITEM 13. STATUS REPORT ON CONTINUED MONITORING OF CONDITIONS IMPOSED BY LAFCO RESOLUTION 3190 – LAFCO 3157 SPHERE OF INFLUENCE ESTABLISHMENT FOR COUNTY SERVICE AREA 120 (CONTINUED FROM APRIL 18, 2018 HEARING) – STAFF RECOMMENDATION APPROVED

Executive Officer Rollings-McDonald states that it has been staff's intent to update the Commission on the conditions since at the March hearing, the Commission heard from the County Vision Environmental Element group that was looking at habitat conservation efforts. She states that the Commission continued the further monitoring of CSA 120's compliance with the conditions imposed during its sphere of influence establishment to the conclusion of the County's efforts. She states in background that in September 2014 the Commission established and approved the sphere of influence for CSA 120. She states that in May 2015 the Commission received responses to those conditions that were imposed on the sphere of influence establishment especially those related to financial stability and operations and at that hearing it was decided to defer further updates until the County Environmental Element group completed their work. She states that at the hearing in March 2018, the Commission received an update and decided to close the service review on habitat and open space to be reinitiated once the studies were done. She states that staff is providing the updates on the conditions imposed and which are outlined in the staff report, a complete copy of which is available in the LAFCO office and made a part of the record by its reference here.

Executive Officer Rollings-McDonald states that the Commission's direction at the 2015 update was that if the conditions of the sphere establishment were not met, then a sphere of influence amendment should be initiated by the Commission to provide a zero sphere of influence for

CSA 120. She states that a zero sphere of influence by Commission policy is a declaration that the Commission believes these services should be performed by another agency. She states that staff is recommending that the Commission receive and file the report presented and initiate a sphere of influence amendment study to assign a zero sphere of influence along with the direction that staff convene a working group including representatives from CSA 120, County Administrative Office, LAFCO Staff, California Department of Fish and Wildlife, Inland Empire Resource Conservation District, City of Rancho Cucamonga and SBCTA. She states that this committee will review the options for any possible reorganization and determine the potential needs for conditions of approval to transition that service to a financially sustainable entity.

Commissioner Rutherford states that the statement of the zero sphere means that another entity should be managing it. She states that without taking a position on this, we have IERCD out there and the real issue goes back to the money tied to the land, so if IERCD were to do it, do they have a magic wand that I do not know about? To which Ms. Rollings-McDonald states that they receive a share of the general ad valorem tax from all private properties in the west end and they have a revenue stream that can accommodate the administration of these lands, we believe; but this is a part of what the working group will review to assure that they can do the administration as they currently partner with CSA 120 to perform some of the programs.

Commissioner Rutherford states they are a great entity and I believe we should definitely look at them. She states that the problem is with the way the acquisition of the original area of CSA 120 was endowed and the responsibilities acquired through the Park Grant. She states her position that anybody who takes it on will have challenges generating enough revenue in those circumstances.

Ms. Rollings-McDonald states that there will be a challenge and unless the County general fund is willing to give up a share of its general ad valorem tax from all the other territory within CSA 120, that agency will never get to the point where it is sustainable. She states that the areas that are in the mitigation the title of the property is in the name of CSA 120; however, the conservation easement is in the name of the County; therefore, the responsibility to fund the mitigation measures necessary is a potential liability to the County as a whole if the revenue is insufficient.

Vice-Chair Curatalo opens the public hearing and calls the first speaker.

Jeff Rigney, Director for the County of San Bernardino Special District states that he is here to support LAFCO staff's recommendation. He states that anyone that has been involved or seen this progression knows there has been a financial challenge to operate the open space area the way the Department of Fish and Wildlife would like. He states that even with some of the potential revenue that CSA 120 anticipates coming in, the District will continue to be financially challenged.

Vice-Chair Curatalo calls for further testimony; there being none closes the public hearing and returns the matter to the Commission.

Commissioner Cox moves the staff recommendation, Second by Commissioner Bagley. There being no opposition, the motion passes with the following roll call vote: Ayes: Bagley, Cox, Curatalo, McCallon, Rutherford and Williams. Noes: None. Abstain: None. Absent: Lovingood, Ramos (Commissioner Rutherford voting in his stead)

Commissioners Cox and Rutherford leave the dais at 12:16 P.M.

INFORMATION ITEMS:

ITEM 14. LEGISLATIVE UPDATE REPORT

Executive Officer Rollings-McDonald states there is not much to report other than SB 2258, which is the CALAFCO sponsored bill for funding grants for LAFCO studies. She states that the chairs of the committees and CALAFCO are still working through the funding issues and the questions regarding the protest threshold. She states that CSDA has come out in opposition to SB 2258, but CALAFCO is continuing to work through it and it appears that it will move forward.

ITEM 15. EXECUTIVE OFFICER'S ORAL REPORT

- a. New Proposals Received
- b. Update on Proposal Filed with LAFCO

Executive Officer Rollings-McDonald states that there are no new proposals received. She states that the July hearing will have the wastewater review and the Wrightwood sphere of influence establishment. Executive Officer Rollings-McDonald states that with this presentation, this will be her last as Executive Officer of the Commission.

ITEM 16. COMMISSIONER COMMENTS

Vice-Chair Curatalo states that he would like to thank Kathy for the years of excellent service provided to the Commission, to the communities and agencies we have served not just here, but statewide. He states that she has been a great contributor to many of the issues.

Commissioner Williams thanks Kathy and states that she has always made it easy to understand the issues. She states that Kathy has smoothed things out and put them back together.

Commissioner Bagley states that it is a shock to hear the words come out of her mouth that this is the last hearing as the Executive Officer. He states that there is a touch of sadness as her institutional knowledge is unmatched and her contribution to the State of California is invaluable.

Commissioner McCallon states that he appreciates all the work Kathy has done in the EVWD project.

Commissioner Amis states that she has not worked with Kathy long, but has been impressed with her.

ITEM 17. COMMENTS FROM THE PUBLIC

There are none

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 12:23 P.M

ATTEST:

LA TRICI JONES
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Vice-Chair

DRAFT