

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JANUARY 17, 2007**

**REGULAR MEETING**

**9:00 A.M.**

**JANUARY 17, 2007**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Paul Biane, Chairman</b>	<b>Larry McCallon</b>
	<b>Bob Colven, Vice Chairman</b>	<b>Mark Nuaimi</b>
	<b>James V. Curatalo, Alternate</b>	<b>Richard P. Pearson</b>
	<b>Josie Gonzales, Alternate</b>	<b>A.R. "Tony" Sedano, Alternate</b>
	<b>Dennis Hansberger</b>	<b>Diane Williams, Alternate</b>

**STAFF:**

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

**ABSENT:**

**COMMISSIONERS:**     **Kimberly Cox**

**9:00 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –**  
Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street,  
First Floor, San Bernardino.

**Personnel (Government Code Section 54957)**

**Employee Evaluation – Executive Officer**

**9:50 A.M. – RECONVENE TO REGULAR MEETING OF THE LOCAL AGENCY FORMATION  
COMMISSION – San Bernardino City Council Chambers.**

**CALL TO ORDER - FLAG SALUTE**

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

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

**APPROVAL OF MINUTES FOR REGULAR MEETING OF NOVEMBER 15, 2006**

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

**CONSENT ITEMS**

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

- (1) approval of the Executive Officer's expense report; and
- (2) approval of payments as reconciled for the months of November and December 2006 and noting cash receipts.

A staff report outlining the staff recommendation for the reconciled payments has been prepared and a copy is on file in the LAFCO office and is made a part of the record by its reference herein. Executive Officer Kathleen Rollings-McDonald reports that a Visa Justification, which was not a part of the Agenda packet, has been provided to the Commission this morning for consideration as part of the expense report.

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

Commissioner Pearson moves approval of the staff recommendations for the consent calendar items, seconded by Commissioner Colven. Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead).

**CONTINUED ITEM**

**CONTINUED FROM NOVEMBER 15, 2006 – CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF SAN BERNARDINO FOR THE SAN BERNARDINO GENERAL PLAN UPDATE AND ASSOCIATED SPECIFIC PLANS (SCH NO. 2004111132), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3050; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3050—REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) – APPROVE STAFF RECOMMENDATION AND CONTINUE TO MARCH 21, 2007**

LAFCO conducts a public hearing continued from November 15, 2006, to consider a reorganization submitted by the City of San Bernardino (hereinafter referred to as "the City"), including annexation of two areas to address territory included within the Arrowhead Springs Specific Plan not currently a part of the City. Notice of the original hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area and individual mailed notice was provided to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

A copy of the staff report recommending that the Commission continue the consideration of LAFCO 3050 to the March 21, 2007 hearing as requested by the City is on file in the LAFCO office and is made a part of the record by its reference herein.

Commissioner Hansberger moves approval of staff recommendation, seconded by Commissioner Nuaimi. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, McCallon, Nuaimi, and Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead).

**DISCUSSION ITEMS**

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**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3059; AND (2) LAFCO 3059 – SPHERE OF INFLUENCE REVIEW FOR SAN GORGONIO PASS WATER AGENCY (EXPANSION) AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (REDUCTION) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a proposal to add approximately 10,955+/- acres to the sphere of influence of the San Gorgonio Pass Water Agency (hereinafter referred to as the “Agency”) and concurrently remove two separate areas from the sphere of influence of the San Bernardino Valley Municipal Water District (hereinafter referred to as “Muni”). Notice of this hearing was advertised as required by law through publication in The Sun and through publication of a one-eighth page legal ad in the Press Enterprise, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and to landowners and registered voters within and surrounding the sphere expansion/ reduction area pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez states that this sphere expansion will be the first introduction of the Agency, which is currently only in Riverside County, into San Bernardino County. He shows a map on the overhead display of the Agency’s sphere and boundaries and provides some background information on the Agency, as outlined in the staff report. He says the purpose of the sphere expansion is to include an area within the upper reaches of the Whitewater River watershed into the Agency’s sphere to provide a means to plan and coordinate measures that would help protect the watershed. He explains that initially the boundary configuration did not include whole parcels and he says the Agency’s intent was to define the northwest sphere expansion boundary along the established sphere boundary for Muni. He says staff requested the Agency to expand its proposal to follow lines of assessment, which created reductions to Muni’s divided parcels and fixed the problem with Muni’s sphere.

Commissioner Hansberger asks if both agencies agree with the proposal and Mr. Martinez responds that they do. Commissioner Hansberger comments that staff is recommending that the west half of Section 19 be taken from Muni’s sphere and put into the Agency’s sphere. He says he is not sure but it appears that is the easterly extension of Pine Bench Road. He says if they follow that road, it goes down to Oak Glen Road and that the only access to the region is from San Bernardino County on Oak Glen Road up through Pine Bench Road. He says he does not know whether it is relevant, but his concern is that if those are properties up within that area that might ultimately be served by a local water serving agency, it is not likely that the water service they would receive would ever come from the Agency. He says they are only talking today about a watershed and not the retailer and wonders if that is relevant because those properties are within San Bernardino County and have their only access in San Bernardino County. Mr. Martinez says that most of the parcels are part of the National Forest; that there are a couple of parcels owned by individuals, but they are on the east side.

In response to Commissioner Hansberger’s concern, Executive Officer Kathleen Rollings-McDonald states that this could possibly have a potential effect in the future on retail water delivery. She explains that the introduction of State Contractors defines the area in which water received from the State project can be delivered. She says that if water is coming from Muni’s boundaries and is served inside another agency, if this area were to be annexed ultimately to the Agency, there would have to be agreements reached. Commissioner Hansberger says that if there are no serviceable lands, and if the lands are within the National Forest and that road is just a National Forest road and no one would be served there, then this is not an issue. He says his suspicion is that this is not going to be a problem and says that, hopefully, both agencies have considered the issues he raised. Commissioner Hansberger moves, seconded by Commissioner Curatalo, approval of staff recommendation as outlined in the staff report.

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

Jeff Davis, General Manager of the Agency, states he has worked closely on this item with Muni and LAFCO staff. He says he thinks this is a win/win situation for all parties involved.

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Randy Van Gelder, General Manager of Muni, states that the Board considered this proposal and is in agreement with staff recommendation.

Chairman Biane states that both agencies involved are on record in favor of this proposal. He closes the hearing and asks if there are any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, McCallon, Nuaimi, and Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead).

**REQUEST FOR DETERMINATION OF NON-DISTRICT STATUS FOR SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT RELATED TO LAFCO 3076—CONSOLIDATION OF SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a request for a determination of non-district status for the San Bernardino Valley Water Conservation District (hereinafter the "SBVWCD" or the "District") related to LAFCO 3076-Consolidation of San Bernardino Valley Water Conservation District and San Bernardino Valley Municipal Water District. Notice of this hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald reports that on December 15, 2006, the SBVWCD submitted a request for the Commission to determine it to be a "non-district" for processing of the protest proceeding and completion actions related to LAFCO 3076, a proposal submitted for processing on December 13, 2006, by the San Bernardino Valley Municipal Water District (hereinafter "Muni") to consolidate Muni and the SBVWCD. She says that staff is processing that proposal but understands that litigation regarding the California Environmental Quality Act (CEQA) process related to the resolution initiating the proceedings has been filed by SBVWCD.

Ms. McDonald states that in evaluating the District's request, the Commission is guided by Sections 56127 and 56128 of the Government Code, which require the Commission to grant non-district status if the District is not engaged in any of the four activities listed in the staff report. She says that SBVWCD does not provide any of those services; that its primary purpose is to recharge a portion of the Bunker Hill Basin; and that the Commission is, therefore, obligated to determine that the District is a non-district. She says the relevance of that is that under Government Code Section 56036, if the Commission makes that determination, the processing of the protest proceeding and completion of the consolidation would operate under the SBVWCD's principal act, Water Conservation District Law. She continues, noting that in doing so, under the consolidation provisions of this Act, the Commission would be guided to Water Code Section 32650 for processing. Ms. McDonald states that this section was repealed in 1965 by adoption of the District Reorganization Act (DRA). She goes on to explain that in 1985, several bills enacted the Cortese-Knox Government Reorganization Act, which consolidated the DRA with the Municipal Organization Act and the Knox-Nesbit Act into a single set of statutes. She says that in 2000, AB 2838 rewrote LAFCO law as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the statute under which the Commission operates at this point in time. She says that by giving the SBVWCD non-district status and following the peculiar chain of connecting statutes outlined in the staff report, it is the staff's position that LAFCO will conduct the protest proceeding and completion process for the consolidation, even though non-district status has been granted.

Ms. McDonald says that staff recommendation is that the Commission grant the District's request for non-district status and note that through this circular sequence of sections, the Commission will continue to provide for the protest proceeding and completion of LAFCO 3076.

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

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Jess Senecal, Special Counsel for the SBVWCD, urges the Commission to approve staff's first recommendation that it determine that the SBVWCD is not a district, noting that staff gave a fair presentation indicating what the Commission has to go through to make that determination. Mr. Senecal says Ms. McDonald also pointed out that the Commission is obligated and mandated to make that decision if the District is not engaged in those functions she identified, so he says that should be dispositive of the item facing the Commission this morning. However, he says staff went beyond that and has asked the Commission to make a decision as to what the effect of making the non-district determination is and he says the District has problems with that. He says Ms. McDonald has taken the Commission on a ride through the "chain of connecting statutes." He explains that the law says that once the Commission determines that the SBVWCD is not a district, the procedures for processing the change of organization and the subsequent terms and conditions and implementation are to be handled by the principal act of the agency that has been determined not to be a district. He says they must go to the District's act, as was stated, and he says that in the Water Conservation Act there is no provision for the processing of, or completion of, the proceedings for consolidation. He says staff is suggesting that LAFCO expand its powers and become a legislature and repeal a section that already exists in the statutes, which he says they cannot do. He says the law clearly says that the provisions of Part 4 or Part 5 of the Cortese-Knox-Hertzberg Local Government Reorganization Act do not apply to the District once the Commission has determined that it is not a district, and he says the Legislature has a provision in Section 56128 of the Government Code that says that. He says they can "chase themselves around the circle" presented by staff, but the fact remains that there is currently no provision that allows LAFCO to come back into the picture and take jurisdiction for completion of this change of organization. He says the problem is the result of a deficiency in the statutes and that the solution lies in Sacramento, not here. In summary, Mr. Senecal asks that the Commission proceed with staff's first recommendation and declare non-district status for the SBVWCD. Regarding the second recommendation, he says he does not think that it is necessary for the Commission to make that decision today; that there will be time to deal with that later; and that he does not think it is helpful and thinks it is wrong.

Patrick Milligan, President of the Board of Directors for Muni, thanks the Commission for spending a huge amount of time during the last year following the legislative mandate it has been handed-- to carefully examine districts in this valley and, if any are found to be unnecessary and duplicate taxpayer expenses and their activities can be taken and consolidated with another district, that be done. He says the Commission deserves thanks for the amount of time it has spent in arriving at the conclusion that the SBVWCD is an unnecessary district. He says maybe as much as a million dollars per year can be saved if SBVWCD is consolidated with Muni and he says Muni followed up on the Commission's recommendation and set in process the steps necessary to force the consolidation that the Commission found to be to the benefit of the people in the area and is mandated by the Legislature. Mr. Milligan says the SBVWCD is proposing that the Commission change its designation and that, in changing its designation, the legislative mandate in the Commission's enabling legislation can be defeated and that the work of the Blue Ribbon Committee appointed by the Commission to study the matter, which concluded that the District should be consolidated with Muni, will also be defeated. He says that cannot be the law; that LAFCO staff has correctly analyzed the matter; that LAFCO's Counsel has looked at this and that the Commission knows these two recommendations are legally sound. Mr. Milligan says he is an attorney and knows the recommendations are legally sound and that Muni's lawyers have looked at this and believe staff's recommendations are accurate. He says it cannot be that the District's change in designation can defeat all the efforts that have been undertaken and the will of the Legislature. He asks that the Commission approve both staff recommendations and says if the District thinks that a miracle is occurring here and that this consolidation can be stopped, the District can go to court. He says it seems that the appropriate thing is that the Commission follow staff's recommendation and that the consolidation go forward and they can see where that leads.

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

Commissioner Curatalo asks for Legal Counsel Clark Alsop's take on staff recommendation No. 2.

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Mr. Alsop states that the non-district status provision does not exempt the SBVWCD, if it is determined to have non-district status, from the LAFCO proceeding but only exempts it from the conducting authority and the final sections of the Code. He explains that even if the District is determined to have non-district status, it will still be subject to LAFCO; the Commission will have a staff report and will make some kind of decision. He says the issue is the conducting authority part and for that, as Ms. McDonald indicated, they must look at the principle act. As outlined in the staff report, he says that the Water Conservation District Law says they must look to the County Water District Law; that the County Water District Law was repealed when the District Reorganization Act was enacted, which then became the Cortese-Knox Act, which became the Cortese-Knox-Hertzberg Act. He says that is the circle and he completely supports the finding that when they walk through each of those sections, they wind up back at LAFCO being the conducting authority.

Commissioner McCallon asks if there is any reason that they have to make a determination on the second recommendation today. He says the Commission was asked to make the first determination; but he says he does not see a need to go beyond making that determination at this point. Commissioner Curatalo says he sees merit in that comment.

Commissioner Pearson moves approval of both staff recommendations, stating that one of the Commission's tasks is to seek out those areas where savings can be made, and that the Commission has been given the power to do that. He says they have heard from both sides to a great extent and have offered opportunities for input, and he feels it is incumbent to move forward and approve staff's position on both recommendations.

Chairman Biane seconds the motion. He says this issue goes back to a year ago and they have heard testimony from both parties several times. He asks whether staff recommendation is any different than what was first recommended.

Ms. McDonald explains that the municipal service review/sphere update process for the SBVWCD discussed the issue of potential consolidation on many occasions. She says the question in this case is really about the ultimate processing of a consolidation. Commissioner Hansberger points out that the Commission has discussed consolidation, but he says he is not sure they have talked about the issue presented today. Ms. McDonald says the SBVWCD brought up the issue of non-district status and she believes Mr. Senecal brought it up on a couple of occasions when the sphere was discussed. Discussion follows, with Ms. McDonald reiterating that the Commission is required to grant non-district status if the District is not engaging in the four activities listed in the staff report. Commissioner Hansberger asks who the conducting authority will be if no action is taken on the second recommendation. Ms. McDonald responds that, as outlined in the staff report, her position is that the Commission will be the conducting authority.

Mr. Senecal states that the District's position is that the law mandates that the Commission make the first decision with respect to the non-district status, but he says the Commission does not have to decide today what happens after the first determination is made. He says he has heard that a million dollars can be saved and that people are being deprived of things that Muni can provide; but he points out that there is an application pending to consolidate the Districts, and says there will be time to deal with those issues.

Ms. McDonald says this determination of non-district status does not relieve the Commission from the requirement to review the consolidation application, noting that the Commission has the authority to approve, modify and approve or deny the consolidation application. She says that if approved, the non-district status question will then come into play as far as who conducts the final protest proceeding and how the completion is processed. Ms. McDonald explains that the rewrite of LAFCO law placed the conducting authority responsibilities with the Commission, which adopted a policy that LAFCO staff conduct those proceedings, since it is a ministerial process to determine the level of protest. Commissioner Hansberger states that the law requires someone to act as the conducting authority and that the questions raised by Mr. Senecal relate to who will be the conducting authority. Ms. McDonald reiterates staff's position as outlined in the staff report and says Mr. Senecal's position is that the

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conducting authority status cannot be returned to the Commission. She says that leaves staff with the question of who will conduct the proceedings, if not the Commission. Commissioner Hansberger says that if the District has a suggestion as to who would conduct the protest proceeding, he is open to hear it; but he says if there is no suggestion, then someone has to do it and it probably should be the Commission.

Commissioner Sedano says that after listening to this dialogue, Commissioner Pearson is right on target. He says there is a house full of people here that want a decision today, not next week or next month. He says the Commissioners have to make a tough decision; but they should do it and they can go forward.

Commissioner Nuaimi says the SBVWCD is asking that the Commission trust the District--to "make the turn", when the Commission does not know what the destination is. He says he does not think that is a viable alternative; and that the staff recommendation is supported by Legal Counsel. He says the consolidation process will come before the Commission and a determination will be made, and that the issue today is who will conduct the protest hearing process. He says this seems like an impediment put in the path of what has been a contentious issue from day one. He says to come up now with reasons to "muddy the water" does not make sense to him, which is why he will support the motion.

Mr. Senecal asks that the Commission keep in mind that it is not making a decision today that the District should be consolidated, nor is it making a decision as to how that will be carried out. He says that is a function of what the law provides, and possibly the court, as invited earlier, which may direct who is to be the conducting authority and what it should or should not do. He says the only thing the Commission has to do today is what the law requires—to determine that the SBVWCD is not a district. He says they do not have to get into the exposition of what is going to happen from this point forward because they are not there yet.

Commissioner McCallon says he agrees; that they are not considering the consolidation today; and says he does not feel comfortable with the Commission making a decision on the second recommendation today. He says that is something that the Legislature needs to take a look at. Commissioner Hansberger says he tends to agree with Commissioner McCallon, but wants to get to that place a different way. He explains that he is inclined to approve both staff recommendations because he thinks the Commission will be sued and then the Court will have to make the decision. However, he says if they do not act on the second recommendation, there will be no challenge at this point in time; and he says that at some later date, the Commission will come to the same conclusion and will get challenged then.

Commissioner Nuaimi discusses that he does not think the Legislature could have foreseen all the convoluted processing going on here today. He says he feels that there are "legal gymnastics" going on to impede the ultimate outcome of a proposal, and says he does not like gymnastics.

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

**REVIEW AND APPROVAL OF APPLICATION FORM REVISIONS AND AMENDMENT TO  
INDIVIDUAL NOTICE POLICY – APPROVE STAFF RECOMMENDATION**

LAFCO considers the approval of application form revisions and an amendment to its Individual Notice Policy. Notice of this consideration was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

A copy of the staff report prepared by LAFCO Analyst Samuel Martinez is on file in the LAFCO office. The staff recommendation, as outlined on page one of the staff report, includes that the Commission: (1) review and approve the modified policy and procedure related to "Individual Notice of Commission Hearings"; (2) adopt the revised "Listing of Assessor Parcel Number(s) Within Area Proposed for

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Change” form; (3) eliminate the three forms listed; and (4) instruct staff to forward notification of the changes to the County, Cities and Special Districts, and post the revised information on the LAFCO Website.

Chairman Biane asks if any Commissioners have any questions on the staff report. There are none.

Commissioner McCallon moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Biane asks if there are any objections on the motion. There are none and the vote is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead).

Commissioner Nuaimi asks how the Cities will be notified about the changes. Mr. Martinez says that a memo will be sent out to all the Cities and Special Districts notifying them of the changes and he says the changes will be posted on the Website.

(It is noted that Commissioner Hansberger leaves the hearing at 10:40 a.m.)

**MID-YEAR BUDGET REVIEW – APPROVE STAFF RECOMMENDATION**

LAFCO conducts its mid-year budget review. Notice of this review was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO and is made a part of the record by its reference herein. Ms. McDonald states that the report provides forecasts for the balance of the Fiscal Year and provides a spreadsheet that summarizes the expenditures and revenues for the period from July 1, 2006 through the end of the second quarter, December 31, 2006. She states that this staff report notifies the Commission that its Clerk Debby Chamberlin will retire at the end of June of this year and she says the first staff recommendation requests authorization to contract with Alcock and McFadden, the Commission’s Human Resource Consultant, to put together the recruitment process for the Clerk position. She says there will need to be a six to eight week overlap of employees for training purposes once a candidate is chosen and says staff will outline at next month’s hearing what these anticipated costs will be.

Ms. McDonald discusses some of the expenditure items, noting litigation costs that have been incurred and elevated costs for increased Commission activity levels. She discusses revenues, stating that the Commission has received 91.5% of its anticipated revenues and noting that the mandatory payments from the County, Cities and all Independent Special Districts have been received. She says that 13 proposals were received the first half of this year, but she explains that the Cities of Colton and Hesperia withdrew their island annexations and says their proposed refunds are outlined in the staff report.

Ms. McDonald reports that the contract discussed with the County Economic Development Agency to share a GIS Tech II position has not come to fruition yet, but she says that staff anticipates that position to be filled by March. She says that staff is seeking alternative methods to acquire the demographic and spatial information needed for the multitude of applications coming before the Commission.

Ms. McDonald says the second staff recommendation relates to a request received from the San Bernardino County Retirement Association that the Commission consider adoption of two resolutions regarding the pick-up of employee retirement costs. She says staff is recommending that the Commission adopt one resolution reconfirming tax pick-ups for required employee retirement contributions and elective service credit purchase. She says staff recommends deferral of the second resolution until the Budget review so that the implications to the benefit plan can be evaluated.

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Ms. McDonald says the third staff recommendation is that staff be directed to notify the Cities, Special Districts and existing applicants that the Department of Fish and Game Fees and the County Document Handling Fees have increased, effective January 1, 2007, and will be applied to all active applications and future submittals.

Commissioner Curatalo moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Biane asks if there are any objections to the motion. There are none and the vote is as follows: Ayes: Biane, Colven, Curatalo, Gonzales, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead) and Hansberger (Gonzales voting in his stead).

**PENDING LEGISLATION**

Ms. McDonald presents the staff report on pending legislation, which includes the CALAFCO Legislative Report and the California Special Districts Association Legislative Report. She reports that CALAFCO will have its first legislative meeting on Friday and says she is a member of the Legislative Committee and will report to the Commission on any recommendations or discussions on potential legislation. She notes the various subcommittees of the CALAFCO Legislative Committee on which she is a member, as outlined in the staff report.

**EXECUTIVE OFFICER'S REPORT**

Ms. McDonald presents a written Executive Officer's report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She says the first item on the staff report provides the schedule of community meetings to be held within each of the four proposed Improvement Districts of the County Fire Reorganization. She asks for attendance at each meeting by one to three Commissioners, noting that if four attend, that represents a quorum which will require that a special meeting of the Commission be conducted and advertised as such. For the Valley Improvement District meeting on February 5, 2007, Commissioners Biane, Nuaimi, Williams, Curatalo, McCallon and Gonzales indicate they will attend. Ms. McDonald says that represents a quorum so today's meeting will be adjourned to a special meeting on February 5. For the Mountain Improvement District meeting on February 13, Commissioners Colven and Pearson indicate they will attend. Chairman Biane says he will attend if Commissioner Hansberger does not attend. For the North Desert Improvement District meeting on February 20, Commissioners McCallon, Pearson and Sedano indicate they will attend. For the South Desert Improvement District meeting on February 27, Commissioners Colven and Sedano indicate they will attend. Commissioner Curatalo asks if minutes will be taken at the community meetings. Ms. McDonald says there will be minutes taken at the February 5 meeting since it will be a special meeting of the Commission.

Ms. McDonald summarizes Items 2 through 5 of the staff report which outline the items anticipated to be included on the February, March, April and May agendas of the Commission.

**COMMISSIONER COMMENTS**

Commissioner Nuaimi states that a recommendation was discussed in Closed Session this morning that requires Commission action. Legal Counsel Clark Alsop reports that a Closed Session was held on a personnel matter related to the evaluation of Executive Officer Kathleen Rollings-McDonald, and he says a recommendation is to be presented.

Commissioner Nuaimi moves, seconded by Commissioner Curatalo, approval of a five percent (5%) merit salary increase and a two percent (2%) cost-of-living increase for Ms. McDonald. These increases are to be retroactive to January 1, 2007.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JANUARY 17, 2007**

Chairman Biane calls for any objections to the motion. There are none and the vote is as follows: Ayes: Biane, Colven Curatalo, Gonzales, McCallon, Nuaimi and Pearson. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead) and Hansberger (Gonzales voting in his stead).

Commissioner Sedano states that Legal Counsel Clark Alsop will have his 60th birthday in two days.

Chairman Biane states that he attended the CALAFCO Executive Board meeting last Thursday. He says they went over CALAFCO's mission statement. He says he is there as a "watchdog" and does not have a lot to report at this time.

**COMMENTS FROM THE PUBLIC**

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

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 11:00 A.M. TO THE SPECIAL COMMUNITY MEETING OF THE COMMISSION TO BE HELD AT 7:00 P.M. ON MONDAY, FEBRUARY 5, 2007, AT THE FONTANA CITY COUNCIL CHAMBERS, 8353 SIERRA AVENUE, FONTANA, RELATED TO THE COUNTY FIRE REORGANIZATION AND THE FORMATION OF THE VALLEY IMPROVEMENT DISTRICT AND THE CITY OF FONTANA'S ALTERNATIVE PROPOSAL TO THE COUNTY FIRE REORGANIZATION**

ATTEST:

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DEBBY CHAMBERLIN  
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

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PAUL BIANE, Chairman