

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

REGULAR MEETING

9:00 A.M.

AUGUST 16, 2006

PRESENT:

COMMISSIONERS:	Bob Colven, Vice Chairman Kimberly Cox James V. Curatalo, Alternate Josie Gonzales, Alternate Dennis Hansberger	Mark Nuaimi Richard P. Pearson A.R. "Tony" Sedano, Alternate Diane Williams, Alternate
-----------------------	--	---

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

ABSENT:

COMMISSIONERS: **Paul Biane, Chairman**
Larry McCallon

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.

Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(a)): Center for Biological Diversity v. Local Agency Formation Commission, Case No. SCVSS136990

Conference with Legal Counsel – Anticipated Litigation (Government Code Section 54956.9(b)):

Number of Cases: One (1)

9:45 A.M. – RECONVENE TO REGULAR MEETING OF THE LOCAL AGENCY FORMATION COMMISSION – San Bernardino City Council Chambers.

REGULAR SESSION - CALL TO ORDER – 9:45 A.M.

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

Vice Chairman Colven announces that there was no reportable action taken in Closed Session. He requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

SWEAR-IN REGULAR AND ALTERNATE SPECIAL DISTRICT MEMBERS OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Regular Special District Member Bob Colven and Alternate Special District Member Jim Curatalo, whose terms of office expire in May, 2010.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

APPROVAL OF MINUTES FOR REGULAR MEETING OF JUNE 21, 2006 – MINUTES APPROVED

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

CONSENT ITEMS

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

- (1) approval of the Executive Officer's expense report;
- (2) approval of payments as reconciled for the months of June and July, 2006 and noting cash receipts;
- (3) consideration of LAFCO SC#289 – City of Redlands OSC No. 06-01 for Water Service;
- (4) consideration of LAFCO 3030 – City of Redlands Annexation No. 87 (Repp); and
- (5) note receipt of proposal initiated by landowner petition—LAFCO 3066 – Reorganization to Include Annexations to City of Rialto and West Valley Water District and Detachments from Bloomington Recreation and Park District and Central Valley Fire Protection District (Cactus Investment LLC)

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments (which includes a recommendation to continue ratification of payments for July to the September 20, 2006 hearing) and each of the other consent items have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by reference herein. The Notice of Hearing for LAFCOs SC#289, 3030 and LAFCO 3066 were advertised as required by law through publication in The Sun, a newspaper of general circulation. In addition, LAFCOs SC#289 and 3030 were advertised in the Redlands Daily Facts, a newspaper of general circulation in the area. Individual mailed notice of the proposals was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

Vice Chairman Colven announces that Item No. 6 will be deferred for discussion as requests to speak have been submitted.

Commissioners Gonzales and Nuaimi state they will abstain from voting on Item No. 7 due to financial conflicts.

Commissioner Williams moves approval of the staff recommendations for the consent calendar items (with the exception of Item No. 6 which has been deferred for discussion), seconded by Commissioner Cox. Vice Chairman Colven calls for any objections to the motion. There being none, the voice vote on the motion is as follows: Ayes: Colven, Cox, Gonzales, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: For Item No. 7 only--Gonzales and Nuaimi. Absent: Biane (Gonzales voting in his stead), McCallon (Williams voting in his stead).

DISCUSSION ITEMS

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

DEFERRED FOR DISCUSSION – CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR ZONE CHANGE NO. 423 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3030; AND (2) LAFCO 3030 – CITY OF REDLANDS ANNEXATION NO. 87 (REPP) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider an application submitted by property owner petition for annexation of approximately 1.15+/- acres to the City of Redlands (hereinafter “the City”). Notice of this hearing has been advertised as required by law through publication in The Sun and the Redlands Daily Facts, newspapers of 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 the one landowner within the annexation area and landowners and registered voters surrounding the annexation area pursuant to State law and Commission policy. A copy of the staff report is on file in the LAFCO office and is made a part of the record by its reference herein. The staff recommendation is that the Commission: (1) take the actions listed with respect to environmental review; (2) approve LAFCO 3030 with the standard terms and conditions; (3) waive protest proceedings as permitted by Government Code Section 56663(c), with 100% landowner consent to the annexation; and (4) adopt LAFCO Resolution No. 2930 setting forth the Commission’s findings, determinations and conditions of approval concerning this proposal.

Vice Chairman Colven states this item has been deferred from the consent calendar for discussion and calls on those requesting to speak.

Doug Snyder, representing the applicant Erma Repp, says they have been working on this project since March of 2005 with the staffs of the City and the Building and Safety and Environmental Health Services Divisions of the County. Mr. Snyder reports that the septic system associated with the commercial building has failed; that the area is contiguous to the City; and that the City’s lateral runs in front of Ms. Repp’s shop. He says they must tie into the City’s sewer and that the only option they have is through annexation. He says this is the last recourse and asks that the Commission approve the annexation.

John Bonson, the owner of an interest in property within a block of the annexation area, says he received a letter dated July 31 asking that he respond by August 4 as to whether he would be interested in annexation to the City. He says people in the community need to be given more time to respond and give their feelings regarding annexation. He says this is a well-established community which should be aware of what is happening, but he says he has met no one who was aware of this annexation.

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

Commissioner Cox moves approval of staff recommendation, seconded by Commissioner Gonzales.

Commissioner Hansberger says the difficulty is that in order for the applicant to receive water and sewer service, her only option is the City, which requires that the Commission approve the City providing those services outside its boundaries. However, he says the City has regulations that prohibit the extension of water and sewer service outside the City to property that is contiguous, without annexation. He says these “sawtooth” annexations do not create the best boundaries but the alternative is to deny people the use of their land. He says he believes it would be appropriate if either the City’s regulations could be changed, which has to be done by an initiative, or if there could be legislation to grant authority to Commissions to approve an out-of-agency service contract when the local rules may create an improper annexation. He says approval of annexation is the only option for today.

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

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3007; AND (2) LAFCO 3007 – DISSOLUTION OF PARKER DAM RECREATION AND PARK DISTRICT – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider the dissolution of Parker Dam Recreation and Park District (hereinafter referred to as “the District”). Notice of this hearing was advertised as required by law through publication of one-eighth page legal ads in The Sun and the Parker Pioneer, newspapers 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.

LAFCO Analyst Michael Tuerpe presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Tuerpe states that this proposal was initiated by the Commission to dissolve the Parker Dam Recreation and Park District (hereinafter “the District”), an independent, self-governed district with an appointed five-member board of directors, which was formed in April 1955 by the voters in the community and is authorized by LAFCO to provide park and recreation and streetlight services. He reports that at the May 18, 2005 LAFCO hearing, the Commission was provided with a request from the County Office of the Auditor/Controller-Recorder (hereinafter “the Auditor’s Office”) to dissolve the District due to the lack of financial activity on the part of the District and the inability of that office to contact the District. He says that following receipt of that request, LAFCO staff attempted to contact the District but also had no success; and, on August 17, 2005, the Commission officially initiated the proposal for dissolution of the District.

As outlined in the staff report, Mr. Tuerpe discusses the boundaries of the District, which stretches from Black Meadows Landing on the north to the Colorado River Indian Reservation on the south, and is bordered by the Colorado River on the east. He discusses issues the District has had with appointing members to the board of directors (hereinafter “the board”), noting that presently the District has no active board.

As outlined in the staff report, Mr. Tuerpe discusses the financial considerations the Commission must consider. He reports that dissolving the District would transfer all rights, responsibilities, properties, equipment, contracts, assets, liabilities, obligations, powers and duties of the District to the County. He says that upon successful completion of the dissolution, the property tax revenues derived within the current boundaries of the District will transfer to County Service Area (CSA) 70. He says that as a condition requested by the County, LAFCO staff recommends that CSA 70 be the designated entity to settle the affairs of the District and acquire all of its assets, noting that these additional resources would provide financial assistance for administration of the County Consolidated Fire Agency. He says staff is also recommending that a condition be imposed requiring the County to reimburse the Commission for LAFCO’s processing costs for this action and for the District’s apportionment owed to LAFCO under Government Code Section 56381(b)(1). He notes that there has been little financial activity in the District’s fund on deposit in the County Treasury, with the District’s only revenue source being the accumulation of several years of property tax revenue and interest, and no activity related to expenditures in the fund since Fiscal Year (FY) 2003-04. He says there is no known current or proposed budget for the District and cash on account in the County Treasury totals \$51,398.43 as of August 15, 2006.

Mr. Tuerpe discusses an account the District has in its name at the Wells Fargo Bank branch in Parker, Arizona and says that, due to the account’s lack of activity in the past few years and the Bank’s unsuccessful attempts to contact the District, the Bank placed the account in the escheatment process, scheduling the account to be transferred to the State of Arizona in October 2006. He reports that since the Bank’s receipt of the staff report, it has placed the escheatment on hold and, upon the effective date of the dissolution, CSA 70 will succeed to the Wells Fargo account through completion of this action. Mr. Tuerpe discusses that in June 1991, the District constructed a billboard sign for \$13,920 to promote the District. He says the sign is located at the intersection of State Highway 62 and US Highway 95 (Vidal Junction), over 20 miles outside the District’s boundaries. He says that since the sign is on private property, the District paid a lease for placement of the sign and had entered into a contract for that placement with the former owner of the parcel where it is located. He says financial records on file indicate rental payments from 1991 to 1993 for roughly \$11,000, with the last payment on record in

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

October 1993. He says that because the District provides no services and there are no lease payments being made, the sign is essentially abandoned and the taxpayers of the District can no longer enjoy a return on that investment so, upon the effective date of the dissolution, the ownership of the billboard sign will transfer to CSA 70.

Mr. Tuerpe discusses audits of the District, as outlined in the staff report, and says the most recent audit on file with the Auditor is for the year ending June 30, 2000. He reads an excerpt from that audit which outlines the Auditor's doubt about the District's ability to continue to meet its obligations. Mr. Tuerpe discusses the issues related to the District's lack of a required Appropriations Limit, as outlined in the staff report. He reports that as a condition of approval in a typical dissolution proposal, the Appropriations Limit for the dissolving agency would be added to that of the successor agency. However, he explains that since the District does not have an Appropriations Limit, staff has utilized the methodology outlined in Government Code Section 56811 to develop a provisional Appropriations Limit of \$11,643 for the District.

Mr. Tuerpe discusses the service considerations, as outlined in the staff report. He says that currently, the District provides no services, has no acting board or employees, yet it still receives property tax revenues. He says the District is authorized to provide park and recreation and streetlight services, but he says that to staff's knowledge, the District has only provided park and recreation services. However, he says the District does not own, operate or maintain any parks or facilities and that records only indicate services or activities such as fireworks shows and chili cook-offs. He says this dissolution will, therefore, have no direct effect on the areas in which service is authorized because the District has not provided services for over two years and has no acting board of directors or employees. He notes that the provision of park and recreation services by CSA 70 is not anticipated, but he says CSA 70 has the power to provide such services through an improvement zone if it is determined to be appropriate in the future.

Mr. Tuerpe reports that staff has not received any written correspondence or telephone calls from residents or landowners within the boundaries of the District concerning this dissolution, nor has any written opposition to this action been received from any subject agencies. He says staff notified the State Department of Park and Recreation of the dissolution, as required by State law. He says that a letter from the Department's Director is attached to the staff report indicating that the Department has no official position or comment on the proposed dissolution and there is no record of grant funds disbursed to the District by the Department.

Mr. Tuerpe says the Commission's Environmental Consultant Tom Dodson of Tom Dodson and Associates has reviewed this proposal and recommends that it is statutorily exempt from environmental review. He says that recommendation is based on the understanding that there is no potential for a physical change in the environment because there will be no change in park and recreation service delivery or land use responsibility for property within the District. Mr. Tuerpe notes that since this is a Commission-initiated action, there are special provisions regarding protests, which are outlined in the staff report.

Mr. Tuerpe says that due to the on-going financial and governance challenges that have plagued the District as far back as 1988, it is staff's determination that the District is not financially or managerially viable to function; and, therefore, staff recommends that the Commission approve dissolution for those reasons detailed in the staff report. He says the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) determine that LAFCO 3007 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five (5) days; (2) approve LAFCO 3007, subject to the standard terms and conditions, omitting the standard condition for legal defense responsibility since the Commission is the applicant, and subject to the additional terms and conditions listed in the staff report; and (3) adopt LAFCO Resolution No. 2922 setting forth the Commission's findings and determinations concerning this proposal.

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

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner Cox.

Commissioner Pearson says he thinks this is probably one of the grossest examples of mismanagement and lack of oversight he has seen in his more than ten years on this Commission. He says he personally thinks it is inexcusable to allow something like this to be simply dissolved and walked away from and thinks more action deserves to be taken by other agencies. He says his recommendation is to perhaps submit this to the Grand Jury to investigate why this has been allowed to continue for so long involving taxpayers' resources and various agencies in this County without something being done about it. He says it is a black mark on government at all levels that something like this could continue and perpetuate itself to this extent. He says he is disappointed that so many people the Commission counts on apparently failed in the process of following their responsibilities.

Vice Chairman Colven calls for further comments and there are none. He calls for a vote on the motion and it is as follows: Ayes: Colven, Cox, Gonzales, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead), McCallon (Williams voting in his stead).

CONSIDERATION OF: (1) REVIEW OF STATUTORY EXEMPTION ADOPTED BY CITY OF REDLANDS FOR MENTONE BOULEVARD SEWER MAIN EXTENSION, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#290; (2) REVIEW OF NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR GENERAL PLAN AMENDMENT NO. 109 AND PRE-ANNEXATION AGREEMENT NO. 06-02, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#290; (3) REVIEW OF NEGATIVE DECLARATION PREPARED BY COUNTY OF SAN BERNARDINO FOR MENTONE SENIOR CENTER, LIBRARY AND COMMUNITY PARK, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#290; AND (4) LAFCO SC#290-CITY OF REDLANDS OSC NO. 06-50 FOR WATER AND SEWER SERVICE (MENTONE SENIOR CENTER) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a request submitted by the City of Redlands (hereinafter "the City") for approval of an out-of-agency service agreement that outlines the terms by which it will extend water and sewer service to Assessor Parcel Number (APN) 0298-047-17, which is approximately 9.16 acres and is generally located on the northwest corner of Mentone Boulevard and Opal Avenue within the City's northeastern sphere of influence within the community known as "Mentone". Notice of this hearing has been advertised as required by law through publication in The Sun and the Redlands Daily Facts, newspapers of circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice.

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 the City, on behalf of the Metropolitan Water District of Southern California (hereinafter "the MWD") as the property owner and the County of San Bernardino as the lessee and developer of the property for the Mentone Senior Center, Library and Community Park, submitted a request for approval of an out-of-agency service agreement authorizing it to provide water and sewer service outside its boundaries pursuant to Government Code Section 56133. He says the agreement relates to a single parcel, APN 0298-047-17, which is located about one-quarter mile easterly from the nearest City boundary on Wabash Avenue, as shown on the map displayed. He explains that in 2004, the County secured a 50-year lease agreement with the MWD and says the County is proposing construction of a Senior Center and Library, including a Community Park, on that parcel. Mr. Martinez says that the pre-annexation agreement signed by the three parties and the application submitted by the City indicate that water and sewer service will be provided to an 8.54 acre parcel. He reports that LAFCO staff has identified that the parcel includes territory south of Mentone Boulevard, bringing the total acreage to 9.16 acres, and that staff is amending the acreage from 8.54 to 9.16 to encompass the entire parcel. He says that if water and sewer service is needed in the future on the southerly portion of the parcel, no further agreement will be required.

As outlined in the staff report, Mr. Martinez explains that water service will be provided through an existing 12-inch water main in Mentone Boulevard and that sewer service will be provided through construction of a new sewer main in Mentone Boulevard, at a cost of about \$86,000. In addition, he says

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

the County will be required to install the sewer main in Mentone Boulevard, including any additional items identified in the Plan for Service. He points out that the County, as the owner of the Senior Center, will be charged about 15% more than the in-City bi-monthly rate for water service and about 8% more than the in-City bi-monthly rate for sewer service.

Mr. Martinez discusses the environmental review for this proposal, stating that the City adopted a Statutory Exemption for the sewer main extension in Mentone Boulevard and prepared an environmental assessment and Negative Declaration for General Plan Amendment No. 109 and Pre-Annexation Agreement No. 06-02 and that the County prepared an environmental assessment and Negative Declaration for the development of the Mentone Senior Center, Library and Community Park. He reports that the Commission's Environmental Consultant Tom Dodson of Tom Dodson and Associates has reviewed the City's and County's environmental assessments and indicated they are adequate for the Commission's use as a CEQA responsible agency.

Mr. Martinez states that staff has reviewed the City's request against the criteria established by Commission policy and Government Code Section 56133; that the parcel to be served is within the City's sphere of influence and is anticipated to become a part of the City sometime in the future; and that there is no other existing entity that can provide these services in the area. He says the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) take the actions listed related to environmental review; (2) approve SC#290; and (3) adopt LAFCO Resolution No. 2931 setting forth the Commission's findings, determinations and approval of the agreement for services outside the City's boundaries.

Vice Chairman Colven opens the public hearing and calls on those wishing to speak. Ernie Givens of the Mentone Area Community Association asks whether staff reported that this area is being annexed to the City. Mr. Martinez responds that he indicated that the area is anticipated to become a part of the City in the future. However, he says the area is about one-quarter mile away from the City boundary so it probably is not possible that it will be annexed in the near future. Executive Officer Kathleen Rollings-McDonald adds that the only way annexation to the City can be proposed is if the property is contiguous to City boundaries. She explains that this parcel is one-quarter mile away and says there is no way to construct an annexation without taking in residences and properties that are opposed to annexation. Therefore, she says the likelihood of an annexation occurring in the near future is highly unlikely, although the pre-annexation agreement does provide for consent by the MWD to annexation. Mr. Givens says he has nothing to say because he thought the area was to be annexed to the City and he is against all "fingers" that go into the County area in Mentone.

Cheryl Tubbs, a resident of Mentone, says she is opposed to this service contract, as she has been opposed to many others before the Commission in the past few years where property owners must sign pre-annexation agreements. Ms. Tubbs says she is also opposed to any actions the Commission may take that could lead to piecemeal annexations, which she says have occurred with prior proposals for the receipt of City water and sewer service where the people either signed pre-annexation agreements or were annexed because they are contiguous to the City boundaries. She notes that even though this property is not contiguous, it could become so in the future and she says they are seeing a lot of "fingers" and sawtooth annexations in Mentone because of the need for water and sewer service. She discusses that she is distressed about this parcel and proposal because she says the Senior Center, Library and Park that are being constructed by the County, have been funded by County, Federal and State funds, and also have been funded by fundraisers that took place in the community of Mentone. She says this is particularly disturbing since the people living in Mentone who have raised money to help with this construction are opposed to becoming a part of the City. She notes that she understood from talking to Supervisor Hansberger that some Council Members from the City were willing to waive the pre-annexation portion for this property but the MWD wanted to go ahead and get the sewer service extended. She asks that consideration be given to giving time to allow the City and the MWD to work out an agreement so that the pre-annexation agreement can go away and not be a part of the resolution the Commission adopts today. She says the groundbreaking ceremony is Saturday and she believes that the Mentone citizens would prefer to wait a couple of months so this issue can be worked out and delay construction of the facility. Ms. Tubbs reads into the record a letter requesting a postponement from Kitty

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Talley, Vice President/Treasurer of the Mentone Area Community Association, who could not be present today. A copy of the letter is on file in the LAFCO office and is made a part of the record by its reference herein. The seven reasons for her request are summarized as: (1) no tax revenue will be generated by the property; (2) this proposal would create an island; (3) the greater Mentone community had no knowledge of this item until August 11, which does not allow enough time for community members to arrange to be present to give input to LAFCO on the pre-annexation agreement; (4) the actions taken by the City in May and June were done without notification or input from the greater Mentone community; (5) the MWD has not contacted or asked for input from the greater Mentone community; (6) the MWD often came to the greater Mentone community when it was putting in its pipeline and the Association worked with the MWD and the County, culminating in the MWD giving a 50-year lease to the County, so it is not unreasonable for the community to expect to be heard from on the pre-annexation issue; and (7) surely the County and the MWD would want to work with the City to find lawful statutes to waive the pre-annexation agreement and does the County want to have the money it will be spending on the Senior Center/Library annexed to the City, whether that is sooner or later?

John Bonson, a resident who lives close to the area, asks why more people in the community are not more familiar about this project before it has come to this point. He says he has questions about sewers in the area but has never received answers. He says he has heard in the past that federal funds have been given for sewer service on Mentone Boulevard and he would like to know more about the history and future of sewer service in relation to Federal funds for sewers in this area.

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

Commissioner Hansberger discusses the history of this project, stating that the MWD agreed to make the property available for public use and that a long-term desire to put in a park also led to his exploration of how to expand the Mentone Library. He says there is an opportunity to expand the Library because they have land and have been able to secure about \$4.6 million in funds from four different sources to create the Senior Center, Library, community meeting area and a park. He explains the difficulty is that water and sewer service can only be provided by the City and all new development in the Mentone area must sign a pre-annexation with the City agreeing not to protest annexation if that day comes, which now requires Commission approval. He notes that Measure U, passed by the citizens of Redlands, imposes that requirement on any outside service and says the Commission has no power to change that. He reports that while it is true that City Council Members have been willing to try to find a solution; if they attempt to make a finding that sewer and water service can be extended without this agreement, if it is challenged, they will be tied up in court for years. He says he made a personal decision that that risk is too great. He says this property is so far outside the City and illogical to be annexed that it brings no threat of annexation to the Mentone community and the community deserves these services now.

Commissioner Hansberger moves approval of staff recommendation, seconded by Commissioner Gonzales. He invites everyone to the groundbreaking on Saturday. He says he does not want that delayed because construction costs are going up faster than the ability to get money. He also thanks his colleagues on the Board of Supervisors for being considerate to the community and Congressman Lewis who found resources, along with Regional Parks, the Library and others who have been able to bring together funds for the community's benefit.

Vice Chairman Colven calls for further comments and there are none. He calls for a vote on the motion and it is as follows: Ayes: Colven, Cox, Gonzales, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Gonzales voting in his stead), McCallon (Williams voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048; AND (2) LAFCO 3048 – REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 168 (28 ISLANDS) – MODIFY TO ESTABLISH ISLAND 3 AS A SEPARATE PROPOSAL, TO BE KNOWN AS LAFCO 3048B, AND CONTINUE ITS CONSIDERATION TO SEPTEMBER 20; MODIFY LAFCO 3048 TO SEPARATE INTO FOUR REGIONAL PROPOSALS, TO BE KNOWN AS LAFCO 3048C (CHERRY

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

**AVENUE REGION), LAFCO 3048D (CITRUS AVENUE REGION), LAFCO 3048E (EASTERN REGION)
AND LAFCO 3048F (FOOTHILL CORRIDOR REGION); APPROVE STAFF RECOMMENDATIONS
FOR THE FOUR MODIFIED PROPOSALS**

LAFCO conducts a public hearing to consider the annexation of 28 islands encompassing approximately 2,642+/- acres located within four regions of the City of Fontana's sphere of influence. Notice of this hearing has been advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of 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 reorganization area pursuant to State law and Commission policy.

Commissioner Nuaimi states he will abstain on Items 10 and 11 relating to the City of Fontana's sphere of influence for reasons of receiving campaign contributions because just the magnitude and size of the proposals and their impact on the City. Commissioner Hansberger states that he also is abstaining on Items 10 and 11. He says he does not specifically know of a financial conflict that exists but because there are more than 1,500 property owners, and given the number of people he knows who have a business in that region with whom he has dealt, he feels it is risky for the Commission to proceed with his vote. Commissioner Gonzales states that she also will abstain from voting on Items 10 and 11 due to the number of names received as possible conflicts.

Commissioner Pearson states that a supplemental staff report is to be presented momentarily, but says he would like to move that under Recommendation No. 1 of that staff report, LAFCO 3048 also be modified to be broken down into four separate proposals by region for consideration. Commissioner Cox seconds the motion. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Pearson, Williams. Noes: None. Abstain: Gonzales, Hansberger, Nuaimi. Absent: Biane, McCallon (Williams voting in his stead).

Legal Counsel Clark Alsop says the motion breaks Item No. 10 into four different regions. He asks whether the Commission wishes to continue with the issue in Recommendation No. 1 to exclude Island #3 from consideration under LAFCO 3048 (the Cherry Avenue Region), establish Island #3 as a separate proposal for further consideration, to be known as LAFCO 3048B, and continue its consideration to the September 20, 2006 Commission hearing. Commissioner Williams says that is her motion, seconded by Commissioner Cox. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Pearson, Williams. Noes: None. Abstain: Gonzales, Hansberger, Nuaimi. Absent: Biane, McCallon (Williams voting in his stead).

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 the City of Fontana (hereinafter "the City") initiated and submitted to LAFCO in December 2005 an application to annex 32 separate islands to the City under the "island annexation" provisions, known as LAFCO 3048. She says that LAFCO staff divided out the four islands in the Bloomington community from the proposal at the inception of its consideration, now known as LAFCO 3048A. She notes that the Commission has now divided LAFCO 3048 into four separate proposals by region (to be known as LAFCO 3048C—Cherry Avenue Region; LAFCO 3048D—Citrus Avenue Region; LAFCO 3048E—Eastern Region; and LAFCO 3048F—Foothill Corridor Region). First, Ms. McDonald discusses some overall myths associated with annexation. She says the property taxes will not increase and that the only way they can is if someone sells his property or makes substantial changes to it, or there is a vote for an additional tax. She states that in an island annexation, a City's utility taxes cannot be extended to the area since the people have no right to vote on the annexation. Second, she says properties will not be forced to hook up to the City's sewer, unless the septic tank fails. In that case, she says the Regional Water Quality Control Board would dictate whether someone had to hook up to the City's system, whether they were in a city or the County. Third, she says it is not true that people will lose their ability to keep their animals, stating that in any annexation if a use is legal in the County, it will be a legal use in the City. She says if the use does not conform to existing land use designations in the City, the use would be

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

grandfathered in as a legal, nonconforming use. Ms. McDonald notes that if the use is illegal in the County, it would not transfer to the City.

Ms. McDonald discusses the Cherry Avenue Region (LAFCO 3048C), which includes Islands 1, 2, 14, 20, 28 and 29, Island 3 having been earlier excluded from this proposal, and shows the location of each island on a flyover presentation. She reports that each individual island has been evaluated against the six criteria identified in Government Code Section 56375.3 and Commission policies and says the staff report outlines the determinations made for each island. She says it is staff's position that these islands meet that criteria. She points out the Island 20 is totally developed, not vacant land as indicated in the City's application. She discusses that Islands 28 and 29 are currently within the territory of the San Sevaine Redevelopment Area, which called into question additional policies of the Commission requiring the consent of the County and the County Redevelopment Agency in order for annexation to proceed. She states that consent has been received.

Ms. McDonald states that the staff recommendation, as modified for the regional consideration, is that the Commission make the findings and determinations required by Government Code Section 56375.3. She says staff believes the Commission's action is ministerial; the Commission has no discretion for a proposal initiated by City resolution that meets this criteria and is a surrounded or substantially surrounded island. She says that the staff report identifies the other factors the Commission must consider such as land use and service issues. She says the findings identified in the staff report will be modified for each additional region. She says the Commission today received a letter from the Fontana Water Company making certain statements regarding its service provision as outlined in the City's Plan for Service. She says that Plan and information in the staff report identify that there will be no change to the responsibility for water service provision.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and, for the Cherry Avenue Region, includes that the Commission: (1) adopt the Statutory Exemption that has been recommended for this proposal and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 3048C—Cherry Avenue Region, as island annexations, making the required determinations pursuant to the provisions of Government Code Section 56375.3, with the standard terms and conditions and conditions to transfer streetlights to the City and to indicate that the City's 5% Utility Users Tax on commercial properties will not be extended to the reorganization area; (3) waive the protest proceedings, as required by Government Code Section 56375.3; and (4) adopt the appropriate resolution (LAFCO Resolution No. 2932), which staff is directed to prepare, setting forth the Commission's findings and determinations concerning this proposal.

Vice Chairman Colven opens the public hearing on the Cherry Avenue Region, as modified, and asks if there is anyone wishing to speak. There is no one and he closes the hearing.

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

Ms. McDonald discusses the Citrus Avenue Region (LAFCO 3048D) , which includes Islands 13, 15, 16, 17, 18, 19, 23, 24, 25, 30, 31 and 32, and shows the location of each island on the flyover presentation. She reports that each individual island has been evaluated against the six criteria identified in Government Code Section 56375.3 and Commission policies and says the staff report outlines the determinations made for each island. She says it is staff's position that these islands meet that criteria and the Commission is required to approve this reorganization. She notes that the City indicated that Island 17 was 61% surrounded by City boundaries but she points out that it would be considered to be approximately 95% surrounded using the Commission's policy definition of impediments to service delivery, as the northerly boundary is the I-10 right-of-way.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Ms. McDonald says the City has provided a Plan for Service and she says that the City has existing out-of-agency service sewer contracts in these areas. She says water service will be provided by the Fontana Water Company; that fire protection service from Central Valley Fire Protection District will not change; and that road service will transition to the City, taking away some of the confusion between City and County roads. She says staff believes this is a ministerial action for the Commission and that the Commission's Environmental Consultant Tom Dodson and Associates has recommended that this proposal is statutorily exempt from environmental review.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and, for the Citrus Avenue Region, includes that the Commission: (1) adopt the Statutory Exemption that has been recommended for this proposal and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 3048D—Citrus Avenue Region, as island annexations, making the required determinations pursuant to the provisions of Government Code Section 56375.3, with the standard terms and conditions and conditions to transfer streetlights to the City and to indicate that the City's 5% Utility Users Tax on commercial properties will not be extended to the reorganization area; (3) waive the protest proceedings, as required by Government Code Section 56375.3; and (4) adopt the appropriate resolution (LAFCO Resolution No. 2934), which staff is directed to prepare, setting forth the Commission's findings and determinations concerning this proposal.

Vice Chairman Colven opens the public hearing on the Citrus Avenue Region and calls on those wishing to speak.

John Grisafe, who lives in Island 18, north of Island 13 and west of Island 16, reads his presentation into the record, a copy of which has been presented to the Commission and is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Grisafe states that he is not against annexation; he knows it is inevitable; but he is disgusted with the way the procedure played out. He says they were first told they were to be annexed in 2001; that the City at that time presented a specific plan involving their property being annexed and the zoning being changed from RS-1 in the County to Commercial/Light Industrial. He reports that in anticipation of annexation and the zone change realtors have been selling many properties as commercial/industrial zoned parcels and illegal businesses have emerged and blighted the neighborhood, increased pollution, impacted the traffic south of the I-10 Freeway and damaged most of the streets that were not designed for heavy traffic. He says local residents complained to County Code Enforcement but were given the runaround until they threatened the County Supervisors with lawsuits for not enforcing the zoning laws and for impacting their residential lifestyle. He discusses that even though many of the businesses were closed down and have moved out, some residents still are operating up to ten trucks out of their property and are operating truck repair and pallet repair/storage businesses illegally. He says the County is so large it does not look for violations and only checks for violations when a complaint is made. He says his fear is that upon annexation, there may be enough residents operating illegal businesses to petition to change the zoning to manufacturing. His four recommendations for when a City is proposing annexation are outlined in his letter.

Robert McGinty, who has lived on Citrus Avenue for 30 years, says his concerns are the same as Mr. Grisafe's. He discusses his concerns with having residential zoning on one side of Citrus Avenue and commercial/light industrial zoning on the other side, and says the zoning should be the same on both sides of the street. He says he is concerned that someone will be able to put in a truck wash operation on one side of the street, with a residence right next door to it or across the street, which he says does not make sense. He says there needs to be another look at land use before this is completed. He says the City and County are telling people that if they have animals in the County they can have animals in the City; however, he says they have not been zoned agricultural for about 20 years so they really cannot have animals and the whole truth is not being told.

Victor Vollhardt, a resident on Laurel Avenue and owner of property in Island 25, states he is speaking to the whole thing that is going on today. He says if it was five months from now, this action could not happen because the law would have sunsetted; that one developer in Contra Costa County was able to get one Legislator to get this law passed. He says this LAFCO, with the only other one being Orange LAFCO, decided to take the definition of what constitutes surrounding an island to the "nth" degree, using

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

52% and counting flood control channels and freeway boundaries. He points out that people were able to vote on this type of annexation two years ago and could vote on it again in five months; he says he has never opposed anyone who wanted to be inside the City, but this is their land and they should be able to do what they want and vote on it. He says the Mayor, in print and in public, has said he is upset with how the City, along the Freeway Corridor, appears to others and he does not like how it looks. Mr. Vollhardt asks what will happen when that area becomes part of the City, especially when many people in that neighborhood feel this is a hostile takeover. He says that although their property taxes will not go up, development and other fees may go up; there may be punitive code enforcement, zoning changes against their will, and overall harassment to the point of threat of or actual use of eminent domain. He says that freeway property is not the highest and best use and what he does with his property is not the highest and best use; but he says he does not want to sell it. He says they should have the chance to vote on this the way they always did in the past.

Frank Ellis states he is a City resident and can see some benefits of annexation but stands with his neighbors and friends who oppose being annexed in the way it is being accomplished. Mr. Ellis says any good lawyer and reasonable judge could have this action overturned and discusses how he says the City has drawn up lines to make these imaginary islands. He points out islands on the displayed map that he says are connected to each other without any breaks between them except for those imaginary lines that violate the intent of the law of annexation of areas 150 acres or less. He says the Commission should reject this plan today and tell the City that annexation must be put to a vote of the people in the area. He says the City knows that annexation has already been rejected, which is why it is trying to sneak this in through this supposedly legal back door.

Richard Krist, who lives in Island 17, states he agrees with the last four speakers. He says annexation should be voted on. He discusses his concern with the narrow streets and the big trucks that travel down them. He says that houses are going up in that area, but no access roads are being put in. He notes that Ms. McDonald answered most of his questions when she explained about the taxes, but he says he is against annexation and the people should be able to vote on it.

Vice Chairman Colven asks if there is anyone else wishing to speak on the Citrus Avenue Region. There is no one and he closes the hearing.

Commissioner Cox asks to hear from City representatives about the code enforcement concerns expressed and about how code enforcement will be implemented.

Cecilia Lopez-Henderson, the City's Annexation Program Coordinator, states that the City Council just revised its Code Compliance Policy at its last meeting and she says there will be a phased approach to code compliance. She says the first phase will be an educational process to educate the public regarding code compliance and what they need to do to meet code requirements. She explains that some uses will be grandfathered in as legal, nonconforming uses, while others are illegal, nonconforming uses and will be found out about as the City goes along. She says during the second year, the City will start to respond to the code complaints and inspectors will go out and talk to landowners or residents and work with them on code compliance. She says that during the third year, the City will again be responding to complaints; and, after the third year period, it will be status quo in terms of responding to complaints.

Commissioner Cox asks about the concern expressed regarding the land use planning issues with mixing light industrial and residential uses. Ms. Henderson responds that the west side of Citrus Avenue is zoned light industrial and that the east side will be zoned RPC, which is residential planned community and also public facility. She reports that the City has talked to landowners from time to time, including some of those here today, and says there is an opportunity after annexation to start discussing any zone changes that may need to take place. She says when they looked at the City's General Plan Update in 2003, they had input from landowners and residents; but she says that upon annexation, if there is a group that wants to look at a zone change that is more compatible with what they are looking at, the City will consider that. Commissioner Cox asks whether, as these annexations move forward, the City will continue its public outreach to educate the public on this process and the land use issues the City is considering in their areas. Ms. Henderson responds yes, explaining that one of the first things the City

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

will do upon the effective date of the annexations is to send out “welcome to Fontana” packets that include telephone numbers for key administrative, Planning, Code Compliance and Public Works staff. She says the City staff will also hold a series of meetings to address concerns one-on-one and in a large public workshop.

Debbie Brazill, Deputy City Manager in charge of Development Services, says she wants to make it clear on the code enforcement issue that if there are any current code violations in the County, those cases will transfer to the City, and the City will continue to enforce those files. Regarding the land use on Citrus Avenue, she says there is a dividing line and says that when the City was going through its General Plan process, that line had to be made somewhere. She says there is a lot of residential mixed in with commercial/ industrial uses out in that area; that the City is very aware of the concerns of the residents and has been meeting with them periodically. She says staff will continue to explore where that line should be moved as far as land use and will continue to work with the residents in that area.

Commissioner Cox ask staff to address how the islands are made up, since one gentleman held that in suspect. Ms. McDonald states that the boundaries proposed by the City utilized the criteria of surrounded and substantially surrounded in the policy declarations of the Commission. She says substantially surrounded is just that—it is not entirely surrounded; and she says if they look at each island on an individual basis, they do meet the definition of substantially surrounded. She notes that each island could have been processed individually, but says they were submitted as a reorganization, and the Commission is required to look at each individual island. She says the islands are connected, but says that is by definition what “substantially” means—it opens up into some other area. Ms. McDonald points out that the City has pre-zoned its entire sphere and she states that those pre-zone land use designations must hold for two years after annexation, unless specific findings are made by the City Council at a public hearing as to why that land use designation is being changed. She says the Commission must look at the issue of service delivery; must know the potential land uses; and there must be some level of certainty about those land uses.

Commissioner Williams says she is very concerned about the mention of illegal, nonconforming uses and asks if the City is planning to go out and rectify that, because she says it sounds like the County was not doing anything about that. Ms. Brazill responds that the City will not just grandfather in illegal, nonconforming uses and allow them to stay. She says she mentioned earlier that the City will follow up on any County code violation cases that will transfer to the City and will also proceed to immediately respond to any citizens’ complaints. She says if the City sees an illegal use, the person will be educated on how to come into compliance.

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

Ms. McDonald discusses the Eastern Region (LAFCO 3048E), which includes Islands 6, 7, 8, 9, 10 and 11, and shows the location of each island on a flyover presentation. She reports that each individual island has been evaluated against the six criteria identified in Government Code Section 56375.3 and Commission policies and says the staff report outlines the determinations made for each island. She says these islands have high levels of out-of-agency service contracts for sewer service that is currently provided by the City. She says staff believes this is a ministerial action for the Commission and says the Commission’s Environmental Consultant Tom Dodson and Associates has recommended that this proposal is statutorily exempt from environmental review. She reports that the County and City Planning, Code Enforcement and Building and Safety staffs have met to review issues to provide for the successful transition of applications from County to City responsibility. She says County Code Enforcement has shared files with City staff related to existing code enforcement problems and that County Land Use Planning has provided information to the City on existing land use approvals in effect, including those Conditional Use Permits that have not been fully implemented. She says that attached to the staff report is a letter from the City outlining that it will accept the County Land Use planning process; that if building

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

permits have been pulled and inspections have begun, the County will continue to complete that process; that otherwise they will transition to City responsibility.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and, for the Eastern Region, includes that the Commission: (1) adopt the Statutory Exemption that has been recommended for this proposal and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 3048E—Eastern Region, as island annexations, making the required determinations pursuant to the provisions of Government Code Section 56375.3, with the standard terms and conditions and conditions to transfer streetlights to the City and to indicate that the City's 5% Utility Users Tax on commercial properties will not be extended to the reorganization area; (3) waive the protest proceedings, as required by Government Code Section 56375.3; and (4) adopt the appropriate resolution (LAFCO Resolution No. 2935), which staff is directed to prepare, setting forth the Commission's findings and determinations concerning this proposal.

Vice Chairman Colven opens the public hearing on the Eastern Region and calls on those wishing to speak. There is no one and he closes the hearing.

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

Ms. McDonald discusses the Foothill Corridor Region (LAFCO 3048F), which includes Islands 12, 21 and 22, and she shows the location of each island on a flyover presentation. She says the Commission will recall that some time ago, it considered an out-of-agency service agreement exemption between the City and CALTRANS whereby CALTRANS relinquished responsibility for Foothill Boulevard to the City. She says that through this proposal, the official responsibility for implementation of improvements along Foothill Boulevard will be transferred to the City. Ms. McDonald reports that each individual island has been evaluated against the six criteria identified in Government Code Section 56375.3 and Commission policies and says the staff report outlines the determinations made for each island. She says it is staff's position that these islands meet that criteria and the Commission is required to approve this reorganization.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and, for the Foothill Corridor Region, includes that the Commission: (1) adopt the Statutory Exemption that has been recommended for this proposal and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 3048F—Foothill Corridor Region, as island annexations, making the required determinations pursuant to the provisions of Government Code Section 56375.3, with the standard terms and conditions and conditions to transfer streetlights to the City and to indicate that the City's 5% Utility Users Tax on commercial properties will not be extended to the reorganization area; (3) waive the protest proceedings, as required by Government Code Section 56375.3; and (4) adopt the appropriate resolution (LAFCO Resolution No. 2936), which staff is directed to prepare, setting forth the Commission's findings and determinations concerning this proposal.

Vice Chairman Colven opens the public hearing on the Foothill Corridor Region and calls on those wishing to speak.

Carl Atkinson states that he lives in the "path of this disruption". He says that he has participated in efforts to oppose applications for annexation for more than 20 years, because the City was not ready for it. He says the City has demonstrated an arrogant disregard for this Commission in hearing applications for General Plan changes on property that is not in its jurisdiction and disregarding pre-annexation planned zoning. He says Ms. McDonald stated that the City cannot change the zoning in the annexation area for two years but reports that he went to a Planning Commission meeting last night where it was moved to take an application to the City Council for a zone change on property in Island 22 from commercial to rail serve light industrial to build 16 industrial buildings just off Foothill Blvd. within this

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

annexation area. He says during the City's General Plan Updates in 1990 and 2000, there was a tremendous amount of discussion about continuing the commercial nature of Foothill Blvd. in respect of the Old Route 66. He says that on one occasion, residents received the City's notice of a public meeting the day after the meeting and says no notice was given when the last public meeting was cancelled. He discusses that instead of spending all this money and time trying to annex people who do not want to be part of the City, the City should use the money to take care of resurfacing streets and to take care of all the infrastructure problems for its residents. He says if an annexation application included property across a street boundary, the Commission would approve it because it is adjoining property, despite being separated by a street. He asks how those streets now provide separation into these less than 150 acre plots.

Vice Chairman Colven asks if there is anyone else wishing to speak on the Foothill Corridor Region. There is no one and he closes the hearing.

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

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3048A; AND (2) LAFCO 3048A – REORGANIZATION TO INCLUDE CITY OF FONTANA ANNEXATION NO. 168 AND DETACHMENT FROM BLOOMINGTON RECREATION AND PARK DISTRICT (BLOOMINGTON ISLANDS) – CONTINUE TO NOVEMBER 15, 2006

It is noted that Commissioners Gonzales, Hansberger and Nuaimi have announced that they are abstaining on this item.

LAFCO conducts a public hearing to consider the annexation of four islands totaling approximately 289+/- acres located in the southeastern portion of the City of Fontana's sphere of influence associated with the community of Bloomington. Notice of this hearing has been advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of 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 reorganization area pursuant to State law and Commission policy.

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 the City of Fontana (hereinafter "the City") initiated and submitted to LAFCO in December 2005 an application to annex 32 separate islands to the City under the "island annexation" provisions, known as LAFCO 3048. She says that LAFCO staff divided out the four islands in the Bloomington community from the proposal at the inception of its consideration, to be known as LAFCO 3048A. She reports that each individual island has been evaluated against the six criteria identified in Government Code Section 56375.3 and Commission policies and says the staff report outlines the determinations made for each island. She says it is staff's position that these islands meet that criteria; that the Commission is required to approve this reorganization; and the Commission's action is ministerial.

Ms. McDonald discusses Government Code Section 56655 which talks about conflicting proposals and the sequence in which the Commission must review them. She discusses LAFCO 2981, which was a sphere review for the reduction of the spheres of the Cities of Fontana and Rialto submitted by the Bloomington Incorporation Commission (BIC). She says the Commission reviewed that application in February 2006; determined it would take no action to remove or reduce those spheres; but determined to override its existing incorporation policy to allow submission of an incorporation proposal for territory within an existing city sphere of influence. Ms. McDonald explains that the Bloomington incorporation proposal is not an official proposal; that BIC submitted its "Notice of Intent to Circulate Petition", which was acknowledged by staff on March 22, 2006, after these four islands were submitted to the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Commission for review and consideration. She says that without an official proposal for the Bloomington incorporation and the decision on LAFCO 2981, staff does not believe there is a conflicting proposal and the Commission should move forward to review the City's application.

Ms. McDonald states that the staff report outlines the Commission's policy related to substantially surrounded islands and islands within Redevelopment Areas. She shows the location of each island on a flyover presentation. She notes that Island 5 is not a part of the Bloomington Recreation and Park District, explaining that staff, when modifying LAFCO 3048 to exclude these four islands, also included the detachment of the Bloomington Recreation and Park District as a function of the overall reorganization according to Commission policy. She says the Special Districts Department, which administers the Park District, expressed concern about this detachment because the continuing erosion of tax base for the District called into question its long-term ability to continue to provide services. She says the County's concern and the Commission's recommendation adopted during the District's Municipal Service Review that a dialogue take place between the County and the Cities of Rialto and Fontana to allow for the continued overlay of the District following annexation until the District's services could be assumed by the City of Rialto was conveyed to the City. She reports that the City responded to that concern by adopting a resolution indicating it would request the continued overlay of the District in the three islands.

Ms. McDonald discusses the land uses for each island, as outlined in the staff report. She notes that in Island 27 the current County land use is RS-1AA, which is residential, while the City's surrounding land use designation from Santa Ana Avenue north to Slover Avenue is light industrial. She says that is the only area of incompatibility; but she says legal uses will be transferred into the City as legal nonconforming uses.

Ms. McDonald summarizes the Plan for Service and supplemental information provided by the City, as outlined in the staff report. She points out that Islands 4, 26 and 27 are not a part of the Inland Empire Utilities Agency (IEUA) and its Improvement District "C" and says those parcels connecting to the City's facilities will have to pay a surcharge to the IEUA. She notes that the three water providers in this area are the Marygold Mutual Water Company for Islands 4 and 26, the Fontana Water Company for Island 5, and the West Valley Water District for Island 27. She says a letter has been presented to the Commission this morning from the Fontana Water Company identifying that it has water service connections in Islands 4 and 26 and it is its position that these two islands are part of its certificated service area, even though water service in many of the areas is provided by Marygold Mutual Water Company. She notes that solid waste services are provided within the island areas by EDCO Company, a sister company of Burrtec Waste Industries, the franchised solid waste hauler for the City, and she says residents will be required to transfer to Burrtec.

Ms. McDonald states that staff recommends that the Commission approve this reorganization on the basis that the four islands comply with the findings of Government Code Section 56375.3 and Commission policies. She says the Commission policies indicate that it will not move forward with an island annexation containing territory within a County Redevelopment Area without consent of the County Board of Supervisors and the Redevelopment Agency. She says that discussions about the creation of a Bloomington Redevelopment Area never moved forward to an official creation of a Redevelopment Area so there is no concern with that provision. Ms. McDonald states the staff recommendation is outlined on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption recommended for this proposal and direct the Clerk to file a Notice of Exemption within five days; (2) modify LAFCO 3048A to exclude detachment from Bloomington Recreation and Park District, as requested by the City of Fontana; (3) approve LAFCO 3048A as island annexations, as defined in Government Code Section 56375.3, with the standard terms and conditions and conditions to determine there is no conflicting proposal regarding the area proposed for annexation, to transfer streetlights to the City and to indicate that the City's 5% Utility Users Tax on commercial properties will not be extended to the reorganization area; (4) waive protest proceedings, as required by Government Code Section 56375.3; and (5) adopt LAFCO Resolution No. 2933 setting forth the Commission's findings and determinations concerning this proposal.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

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

Eric Davenport, Chairman of BIC, requests that the Commission postpone its decision on annexation of these islands for at least 45 days. He reports that they are in the process of collecting signatures to move cityhood forward and says they are only a few meager signatures away from completing that task. He says if they do not get the required signatures, then he sees no reason why the Commission could not go forward with the annexation. However, he says they have been at this process for over a year and it seems unfair to remove these areas from BIC's proposed city boundaries at this time because it erodes the revenue needed to continue the cityhood process. He says there is no logical reason why annexation could not be postponed.

Paul Russell states that Mr. Davenport covered what he was going to say.

Victor Vollhardt says his involvement is with Island 5 and he would like to ask Ms. McDonald to explain the white area on the map under that island. He discusses his involvement with the Bloomington community as Chairman of the Municipal Advisory Council under former Supervisors Townsend and Riordan, on the Board of the Bloomington Little League, and as the current President of the Bloomington Community Service Council. He says Bloomington needs to have a chance at cityhood; that they tried once before and failed for lack of revenues. He says the whole area has banded together on numerous occasions to fight annexations to Fontana and Rialto and they had a reorganization where they were able to vote themselves out. He says he echoes what Mr. Atkinson said about notice problems because he received a notice from the City on August 2 or 3 inviting him to a meeting on July 26. He says he understands that things like that happen when there are mass mailings. But he says what bothers him about the City's notice was that it starts out by welcoming him as a new resident, when the annexation is just being voted on today. He says the City jumped the gun and it has an attitude problem. He says that Mayor Nuaimi, in an interview for The Sun, discussed the island annexation process and how the law came about and said that it is not a question of being fair; it's legal. Mr. Vollhardt says the Mayor is right—this is legal but none of it is fair.

Ms. McDonald explains that the white area is the remaining City of Fontana sphere area which does not meet the statutory definition of a substantially surrounded island.

Carolyn Denado speaks in opposition stating she wants to live in a country atmosphere and does not want to be part of the City.

Alvin Mears, who resides in Island 4, discusses that he is opposed to annexation because he owns two properties adjacent to one another with an adjoining driveway on which he wanted to put in some little family houses for senior citizens and now his zoning will be changed. He says annexation will substantially reduce the equity and value of his two lots and he is being told he cannot put in houses when others are putting in housing.

James Pester, a resident of Fontana since 1958, and owner of property in Island 4 says he is opposed to annexation because of the loss of property value; that he has been told by real estate agents that a property's value would be less in the City than if it were in Bloomington. He discusses problems he has encountered with the City as far as the lack of weed abatement, issuance of No Parking signs on his street, harassment when he was redoing landscaping at his home, and problems encountered when he wanted to put in a wrought iron fence in his yard. He says inflicting the residents of Bloomington with the City is totally wrong; that the City "could not run a wheel barrel."

Alexia Rishel says she is opposed to the inclusion of these four islands into the City; that Bloomington wants to become a city and be a place where people have a choice and do not have to be subjected to the City's poor planning decisions. She says industrial use is really distribution warehouses that are put in next to a school and businesses and homes and that is not for the community of Bloomington. She says Bloomington can incorporate if other agencies who "have their fingers in our pie" will back off and let them become a city. She asks that they be given an opportunity to become a city so they can live the way they want and not have to deal with Fontana or Rialto.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Juanita Ruiz, a resident in Island 27, says she has lived in Bloomington 27 years and in her home on 1 ¼ acres for 23 years and does not want to be a part of the City. She says she was never notified by the City when the three large buildings, which she says look like prisons, were put in behind her house. She says none of her neighbors received any notice from the City either, even though they have been told by the City that notice was sent out. She reports that she went to the City's annexation meeting at the Sons of Italy on February 22 and the people there expressed their concerns and asked that their concerns, and the Mayor's response to them, be on the record. She says they were told they would be; however, she says the record only contained their names and addresses and not what was said. She says at that time, the Mayor said he was going to allow Bloomington to go ahead with an opportunity for cityhood and said if it failed, then Fontana would annex them. She said she also asked whether, because her property is within a Redevelopment Area, the City would be allowed to take her property by eminent domain since her home would be worth more to the City as light industrial. She says the Mayor told her he would not take her property by eminent domain, but she says that was not on the record either.

Pam Geil, a member of BIC, says she was at the same meeting that Ms. Ruiz was and heard the Mayor's comments. She says she even requested that the City let Bloomington annex back some of Fontana to make a straight line. Ms. Geil says these island areas are needed because there is a lot of commercial property to be annexed on Valley Blvd. and those revenues have been included in BIC's preliminary feasibility study. She points out that the Commission gave Bloomington the opportunity to go forward and says they have been working with Ms. McDonald for way over a year. She says they started their effort way before Fontana was trying to annex this land. She says there is an error in the letter she presented to the Commission this morning, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein, noting that the acreage for Island 4 and 26 equals 168, not over 200. She says LAFCOs in other areas use 75% substantially surrounded but this LAFCO uses 52% and says she does not know whether that is because Cities sit on the Commission and worked on that or whether Fontana had any influence on that. She says that Mr. Dodson has said this is exempt from CEQA, but she says she believes some of the land in Bloomington has an agricultural overlay and there are historical homes that need to be documented as far as the CEQA process. She asks that this annexation be denied or postponed until Bloomington can fulfill its obligations on its incorporation effort. She says this may be legal but it is not right and she asks where the benefits for the people are. She says the people of Bloomington deserve a shake and this annexation will squelch the incorporation attempt.

Virginia Geil, a Bloomington resident, says Bloomington is known up and down the coast through the community's efforts to save the old Bloomington Garage and she says history is what they are all about. She points out that the Mayor said that what Fontana is doing is wrong but it is legal. She says they do not need more houses in the area; that they do not want to be like San Bernardino, known as a crime area, but want to be noted for good living and wonderful people and have their children know the importance of having animals.

Ginger Elliott indicates that everything she wanted to say has been said.

Linda Gonzales states she lives in Bloomington, in front of the big warehouses mentioned by other speakers. She says Fontana said it was going to repair streets, but she says it has not. She says she attended three meetings in Fontana, on February 16 and 22 and March 9, and that questions about property taxes were asked. She says she knows that Proposition 13 says that property taxes will be left alone, but says she thought the Mayor and City Council have the power to change that tax. Legal Counsel Clark Alsop states that the City Council cannot impose property taxes. She says that while LAFCO's letter of July 25 regarding this hearing was sent in English and Spanish, notice of the City's meetings was not sent in Spanish. She discusses that she feels this process is premature because the Hispanic, Mexican-American community was not notified about the City's meetings. She says she called Ms. McDonald and told her there needed to be a City meeting held in Bloomington, in English and Spanish, so people could understand what is going on. She says at the meeting on February 22, she asked the Mayor about what would happen if a septic tank gave out because her father was concerned about how he would hook up to the sewer system on his fixed income. She says there is an incorporation effort in process and asks that the Commission keep fairness in mind.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Vice Chairman Colven asks if there is anyone else wishing to speak on this item. There is no one.

The Commission takes a break at 12:23 p.m. and reconvenes at 12:35 p.m., with no change in Commissioners present.

Commissioner Williams states that she is prepared to make a motion. She says she is a real proponent of self-governance; that the Commission gave the Bloomington people an opportunity some time ago to try and incorporate; and that she thinks they would be cutting them off at the knees if they approved annexation. She says they should continue this to October or November to give the incorporation effort a chance and asks how much time would be needed for a determination.

Ms. McDonald responds that the last possible date for a continuance is November since the island annexation law will expire as of December 31. She says that if Commissioner Williams is suggesting a continuance to allow for evaluation of incorporation, that involves submission of a sufficient petition from 25% of the voters in the boundary, payment for the Comprehensive Fiscal Analysis, evaluation of that material and then the actual evaluation of the overall incorporation, which would take about 18 months. She says if she is suggesting a continuance to allow for submission of the petition to see if the incorporation is initiated, BIC is required to submit its petition by September 25, since they indicated that the first signature was received on March 25. She explains that once the petition is submitted, the Registrar of Voters has 30 days to review it to determine whether the signatures are valid and represent 25% of the voters.

Commissioner Williams moves to continue consideration of this proposal to November 15, 2006, seconded by Commissioner Pearson. Vice Chairman Colven calls for further discussion. There being none, he calls for a voice vote and it is as follows: Ayes: Colven, Pearson, Williams. Noes: Cox. Abstain: Gonzales, Hansberger, Nuaimi. Absent: Biane, McCallon (Williams voting in his stead). Legal Counsel Alsop announces that the motion fails since four affirmative votes are required.

Commissioner Cox says she understood staff to say that a delay until November will not accomplish anything for BIC because its process will take much longer than November and she asks for clarification. Ms. McDonald explains that the petition process must close September 25; that if the required 25% voter signatures are received, BIC must submit fees to pay for the Comprehensive Fiscal Analysis and other application fees, at which time the process will begin and will take in excess of a year. So she says if this is continued to November and the petition is sufficient, there will be the dilemma of the conflicting proposal provisions in Government Code 56655, as far as which proposal is first in sequence. She points out that the first in sequence will be the City's island annexation proposal, so the Commission will have to make a determination that it will take the Bloomington incorporation proposal before the City's proposal. She says the island annexation provisions are set to expire December 31; that there is a bill pending to extend it to 2014 and it is not known if it will make to the Governor for signing.

Commissioner Williams states that the logic behind her motion is that if the petition is not sufficient, this is a moot point and the issue will be settled. But she asks if the petition is sufficient, why the Commission would stop BIC from going on with its incorporation process. Ms. McDonald points out that BIC's proposal could be modified to exclude these four islands. Commissioner Williams says that will cut into their revenue opportunity. She says that Rancho Cucamonga suffers this day from a LAFCO action that cut out some of their areas when it incorporated so she is sensitive to that. She says if they succeed with the petition, there is a good chance that they could succeed with incorporation but asks how they will know if they are not given a chance. Ms. McDonald says Commissioner Williams' motion failed so a subsequent motion is needed.

Ms. McDonald explains that the petition must be submitted to LAFCO by September 25; that there is then a 30-day period for the Registrar of Voters to review the signatures and determine if they are sufficient. She says if they are not, staff must notify the proponents that they have a 15-day period in which to gather additional signatures and she says there is then another period of time for review by the Registrar. She says the continuance must be for at least 60 days.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

Commissioner Pearson moves to continue this consideration to November 15, 2006. He says the rationale for his motion is that the Commission already took a position last Spring and bent the rules to allow the incorporation proponents an opportunity to try to get enough signatures on the petition. However, he points out that the Commission did not withdraw the ability for annexations to Rialto and/or Fontana to continue. He says in all fairness they should at least continue this until November and then, if the petition is sufficient, the Commission can reevaluate whether they want to go further or not. The motion is seconded by Commissioner Williams.

Kenneth Hunt, Fontana City Manager, says he appreciates the challenge there is at times to get a quorum and says the City is fine with a continuance. He says there could be benefits in continuing this to November; that the legislation that extends the deadline possibly may be resolved. He says they have an interest in the City and the community and in uniting the community and squaring off boundaries. He says the Bloomington islands were separated out from the larger application to allow a discussion of Bloomington and to allow the community to deal with their issues. He says he is throwing the City's support behind the continuance if that will help with the voting process.

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

(It is noted that Commissioners Nuaimi and Gonzales return to the hearing at 12:47 p.m.)

Commissioner Nuaimi states he would like to make some comments based on the commentary shared during the public testimony. He says people have asked why the City was pursuing so persistently bringing in 14,000 residents and 3,000 acres to the City. He says they talked at a recent City Council meeting about what this means to the community and that they will be able to keep Fontana revenues in Fontana—that means revenues that are generated in and around the City of Fontana, in the unincorporated areas, which the Plan for Service estimates was over \$4 million, stay in the Fontana community and get spent for community services. He discusses that at the same time, they have had outstanding cooperation from the County, specifically the Second District, and he says that the number of Sheriffs that are assigned to that substation and patrolling that area will not change; but they will have a smaller patrol area. He says the same thing goes for code enforcement. He says the people in the unincorporated areas are the City's neighbors and are using City facilities and he says now the park and recreation fees will go down, their sewer surcharge will go away if they are connected to the City sewer, property taxes will not be increased; and people will not be forced to connect to the City sewer system. He discusses that it is necessary to have an honest debate and dialogue about the merits of annexation and says it is essential that accurate information be out in the public domain. He says he hopes that people will be educated that annexation does not affect their taxes. He says he wishes Bloomington the best and says he believes that a Bloomington City will be better for the region than not having it incorporated because he trusts a City government's ability to provide municipal services in urbanized areas, which he says this region is. He says some folks says this is not an urbanized area and they are trying to retain a certain lifestyle, which he respects, but he says they have to recognize that times have changed and the region is changing.

(It is noted that Commissioner Cox leaves the dais.)

ADOPTION OF IMPARTIAL ANALYSIS FOR LAFCO 2996 – REORGANIZATION TO INCLUDE FORMATION OF HELENDALE COMMUNITY SERVICES DISTRICT AND DISSOLUTION OF COUNTY SERVICE AREA 70 IMPROVEMENT ZONES B AND C – APPROVE STAFF RECOMMENDATION

LAFCO considers adoption of the Impartial Analysis for LAFCO 2996—Reorganization to Include Formation of the Helendale Community Services District and Dissolution of County Service Area 70 Improvement Zones B and C. Notice of this consideration was advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual mailed notice was provided to

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

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 reference herein. Ms. McDonald states the Commission has been presented with an Impartial Analysis, which it is required to prepare for any matter that goes to an election. She says staff recommendation is that the Commission adopt the Impartial Analysis.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Gonzales. Commissioner Nuaimi inquires about the election of the Board of Directors, stating that he assumes the terms are for four years and asks how they will be staggered. Ms. McDonald responds that by law, the initial Board is required to determine the staggering of terms from the first five elected. She says many take the top three vote-getters and give them four-year terms and the two smaller vote-getters receive the two-year terms, and she says some draw straws.

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

(It is noted that Commissioner Cox returns to the dais.)

CONSIDERATION OF REQUEST FOR WAIVER OF ISLAND ANNEXATION FEE SUBMITTED BY CITY OF SAN BERNARDINO FOR LAFCO 3067 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 361 (SIX ISLANDS) – CITY’S REQUEST FOR WITHDRAWAL OF WAIVER OF ISLAND ANNEXATION FEE ACCEPTED; STAFF DIRECTED TO PROVIDE STATUS REPORT ON SEPTEMBER 20, 2006 ON LAFCO 3067 AND LAFCOS 3053 AND 3050

LAFCO considers a request for a waiver of the Island Annexation fee submitted by the City of San Bernardino (hereinafter “the City”) for LAFCO 3067-Reorganization to Include City of San Bernardino Annexation No. 361 (Six Islands). Notice of this consideration was advertised as required by law through publication in The Sun, a newspaper of general circulation. 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 states that since preparation of the staff report, a copy of which is on file in the LAFCO office, a letter was received from the City on August 10, 2006 requesting withdrawal of its request for a fee waiver. A copy of the City’s letter has been presented today to the Commission and is on file in the LAFCO office and made a part of the record by its reference herein. Ms. McDonald asks that the Commission accept the City’s request for withdrawal. Vice Chairman Colven asks if there is a consensus of the Commission to accept the withdrawal and there is.

Commissioner Nuaimi requests that staff provide an update at the September hearing as to where in the process the Arrowhead Springs annexation and island annexation proposals are. Ms. McDonald reports that the City’s island annexation proposal has just started the process; that the Departmental Review Committee meeting is scheduled for next week; and it is anticipated that the proposal will not come before the Commission until its November 15 hearing. She says she will provide the requested update in September.

PENDING LEGISLATION – ACCEPT WRITTEN REPORT

Executive Officer Kathleen Rollings-McDonald presents the staff report on pending legislation, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the staff report provides a copy of the CALAFCO Board of Directors Legislative Report for July, as well as an update on activities taking place during the first week of August for AB 3074, AB 1602, AB 2223, AB 2259 and AB 2158, all bills of interest to LAFCO.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

EXECUTIVE OFFICER'S ORAL REPORT – DESIGNATE CHAIRMAN BIANE AS VOTING DELEGATE AND VICE CHAIRMAN COLVEN AS ALTERNATE VOTING DELEGATE FOR CALAFCO ANNUAL BUSINESS MEETING

Executive Officer Kathleen Rollings-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 states that staff is recommending that the Commission adjourn in memory of Larry H. Hendon, a former Executive Officer for ten years, who passed away in July. She says staff is also recommending that the Commission designate a voting delegate for the CALAFCO Annual Business Meeting. She notes that typically the Chairman is designated to vote, if he is attending the CALAFCO Annual Conference. She says Chairman Biane is Co-Chair of the Program Planning Committee and will be at the Conference.

Commissioner Cox moves to designate Chairman Biane as the voting delegate for the Annual Business Meeting, seconded by Commissioner Williams. Legal Counsel Clark Alsop suggests that since an Alternate is also to be designated, Vice Chairman Colven be designated the Alternate Delegate. Commissioner Cox amends her motion to include designation of Vice Chairman Colven as the Alternate Voting Delegate, seconded by Commissioner Pearson.

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

COMMISSIONER COMMENTS

Commissioner Nuaimi states there were comments made during the island annexation discussion about eminent domain. He explains that the City cannot use eminent domain to take someone's private property unless it is in a redevelopment area that has eminent domain rights. He says the only time the City utilizes eminent domain is if it is doing a park project or schools or road improvements. He says there is a lot of misinformation out there and that eminent domain is another red herring that gets people to oppose a measure.

Commissioner Sedano says this has probably been the most frustrating meeting he has ever attended because he could not hear half of what was said today. He says if the problem is that people are not speaking into the microphones, they need to do so. He discusses that the Commission was taken to task today and says he resented that because people were chastising LAFCO for the job it is directed to do. He says a lot of the complaints should have been directed to the County Supervisors over the areas where the people are complaining that illegal businesses are allowed. He says at the next meeting when he experiences this same feeling, he will "throw a flag up" to get somebody's attention so he can speak up.

COMMENTS FROM THE PUBLIC

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

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 1:02 P.M. IN MEMORY OF LARRY H. HENDON, FORMER LAFCO EXECUTIVE OFFICER.

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 16, 2006**

PAUL BIANE, Chairman