

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

REGULAR MEETING

9:00 A.M.

JANUARY 18, 2006

PRESENT:

COMMISSIONERS:	Paul Biane, Chairman	Paul J. Luellig Jr., Alternate
	Bob Colven, Vice Chairman	Mark Nuaimi
	Kimberly Cox	Richard P. Pearson
	James V. Curatalo, Alternate	A.R. "Tony" Sedano, Alternate
	Dennis Hansberger	Diane Williams

STAFF:

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

ABSENT:

COMMISSIONERS: Josie Gonzales, Alternate

9:00 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –
Conference Room, LAFCO Staff Office, 175 West Fifth Street, Second Floor, San Bernardino.
Personnel (Government Code Section 54957)
Employee Evaluation – Executive Officer

ADJOURN TO PUBLIC SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – Civic
Center Hearing Chambers, 175 West Fifth Street, Second Floor, San Bernardino.

REGULAR SESSION - CALL TO ORDER – 10:00 A.M.

Chairman Biane calls the regular session of the Local Agency Formation Commission to order and he leads the flag salute. He announces that no reportable action was taken in the Closed Session.

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

Chairman Biane and Commissioners Williams, Nuaimi and Curatalo announce they will abstain from voting on Item No. 9 due to conflicts. Commissioner Hansberger announces that he also will abstain from voting on Item No. 9 since he may have a conflict. Executive Officer Kathleen Rollings-McDonald points out that will leave Commissioners Luellig, Pearson, Cox and Colven to vote on that Item and says that all four must vote in favor for the annexation to be approved.

APPROVAL OF MINUTES FOR REGULAR MEETING OF NOVEMBER 16, 2005 – MINUTES
APPROVED

Chairman Biane 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

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

Colven. Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. Chairman Biane states that the consent calendar consists of: (1) approval of the Executive Officer's expense report; (2) approval of payments as reconciled for the months of November and December, 2005, and noting cash receipts; and (3) one service contract. A Visa Justification for the Executive Officer's expense report, and staff reports for the reconciled payments and the service contract, 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 service contract proposal, which is summarized as: LAFCO SC#262-City of Upland Sewer Service Agreement No. SSA-2005-11-01, has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. In addition, individual mailed notice of the service contract was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.

The staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled, noting the cash receipts, and take the following actions for the service contract: (1) certify that LAFCO SC#262 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) approve LAFCO SC#262 authorizing the City of Upland to extend sewer service outside its boundaries to APN 1003-371-10) and (3) adopt LAFCO Resolution No. 2904 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Upland's boundaries.

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

Commissioner Pearson moves approval of the consent calendar, seconded by Commissioner Colven. Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

CONTINUED ITEMS:

CONTINUED FROM NOVEMBER 16, 2005 -- CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR TENTATIVE TRACT MAP NO. 16402, ZONE CHANGE NO. 391 AND ANNEXATION NO. 81, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2989; AND (2) LAFCO 2989 - CITY OF REDLANDS ANNEXATION NO. 81—CONTINUE TO FEBRUARY 15, 2006

CONTINUED FROM NOVEMBER 16, 2005 -- CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR CONDITIONAL USE PERMIT NO. 818, ZONE CHANGE NO. 402 AND ANNEXATION NO. 83, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2990; (2) REVIEW OF ADDENDUM PREPARED BY LAFCO ENVIRONMENTAL CONSULTANT TO ADDRESS CALTRANS RIGHT-OF-WAY AREA AS CEQA LEAD AGENCY FOR LAFCO 2990; (3) REVIEW OF NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR ZONE CHANGE NO. 424, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2990; AND (4) LAFCO 2990 - CITY OF REDLANDS ANNEXATION NO. 83 (AS EXPANDED) – CONTINUE TO FEBRUARY 15, 2006

LAFCO considers two annexations to the City of Redlands, which are continued from the November 16, 2005 hearing. LAFCO 2989 encompasses approximately 9.43 acres generally located south of Madeira

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

Avenue, west of Sapphire Avenue, north of Cedar Lane and east of Plumwood Lane. LAFCO 2990, as expanded by the Commission at the November 16 hearing, encompasses approximately 20.56 acres located along the west side of Amethyst Street between Mentone Boulevard and Madeira Avenue. Notice of the original hearings was advertised as required by law through publication in The Sun and Redlands Daily Facts, newspapers of general circulation in the area and individual mailed notice of those hearings was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy. Individual mailed notice of these continued hearings was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice. In addition, individual mailed notice of the hearing for LAFCO 2990, as expanded, was provided to landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report for these items, 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 that the staff recommendation is that LAFCO 2989 and LAFCO 2990 be continued to the February 15, 2006 hearing. She notes that attached to the staff report are letters from the City of Redlands and the County requesting that both items be continued for an additional month in order to have additional discussions to finalize a response to the Commission's questions related to a contractual relationship for the provision of fire protection and law enforcement services.

Chairman Biane asks if there is anyone wishing to speak on either of these items. There is no one.

Commissioner Nuaimi moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

Commissioner Hansberger comments that he will not be present at the February hearing, but says that does not mean the Commission cannot act on the matters. He reports that he is trying to work with the City to resolve some of the service issues.

DISCUSSION ITEMS

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR ZONE CHANGE NO. 400, CONDITIONAL USE PERMIT NO. 815, TENTATIVE TRACT NO. 16586 AND ANNEXATION NO. 84 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2985; (2) REVIEW OF ADDENDUM PREPARED BY CITY OF REDLANDS FOR ZONE CHANGE NO. 420, ANNEXATION NO. 84 (REVISED), TO ADDRESS INCLUSION OF APN 0299-213-16 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2985; AND (3) LAFCO 2985—CITY OF REDLANDS ANNEXATION NO. 84 – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a petition-initiated application for annexation of 28.5+/- acres to the City of Redlands (hereinafter "the City"). Notice of this hearing was advertised as required by law through publication in The Sun and Redlands Daily Facts, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters 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 reference herein. Ms. McDonald states that the application was submitted by Griffin Industries, the property owner at the time of submission, to address the unincorporated portion of Tentative Tract 16586 and she says the purpose of the annexation is to consolidate the land holdings of a single developer under the City. She reports that Tentative Tract 16586 proposes the development of 76 residential units with five common lots and a parkway on 66.2 acres, 28 acres which are currently in the County and proposed to be annexed to the City. Ms. McDonald

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

shows the annexation area on maps on the overhead display and says that when presented, staff expressed concerns with the configuration of the annexation boundary because it excluded a single parcel whose property owner could not be contacted, and it did not include the Wabash Avenue off-ramp of the I-10 Freeway. She reports that the City and the property owner expanded the annexation to include the parcel that had been excluded and the off-ramp area, bringing the acreage to 33.28+/- acres. She notes that the annexation was not expanded to include the large parcel along the I-10 southeasterly of the boundary because it is zoned for resource conservation due to its topography; there is no need for municipal-level services; and the property owner has no interest in annexing to the City.

Ms. McDonald outlines the existing land uses, which are predominantly vacant, with a single residence along the northern boundary. She says the County's land use designation is RS-1 and that the City processed pre-zoning for the area through its original consideration of the Tentative Tract and its revision on the pre-zoning to include the single parcel. She says the staff report outlines the City's land use approvals for the project area. She summarizes the service issues which are outlined in the staff report. She notes that the annexation area will be responsible for payment of the City's open space tax and that once developed, the residents will be subject to the City's paramedic special tax. She says the Plan for Service prepared by the City shows that the area will benefit from City service and she says the City has shown that it can meet or exceed the current level of service provided by the County.

Ms. McDonald says the Commission's Environmental Consultant Tom Dodson and Associates has reviewed the City's environmental assessment, Mitigated Negative Declaration and Addendum and indicated they are adequate for the Commission's use as a CEQA responsible agency. She says the actions to be taken by the Commission are outlined in the staff report. Ms. McDonald says staff believes this annexation should be approved to consolidate the development project under the single jurisdiction of the City and for the other reasons outlined in the staff report. She says the staff recommendation is listed on pages one and two of the staff report and include that the Commission: (1) take the actions listed related to environmental review; (2) approve LAFCO 2985 with the standard conditions of approval; and (3) adopt LAFCO Resolution No. 2906 setting forth the Commission's findings, determinations and conditions of approval.

Commissioner Hansberger moves approval of staff recommendation, seconded by Commissioner Colven. Commissioner Hansberger asks for an explanation of how the tract proposes to address the connection of Wabash Avenue through the tract to the north.

Pay Meyer, representing Granite Homes, the new property owner, states that currently, when someone travels on Wabash Avenue, the pavement ends where Reservoir Road and the westbound off-ramp intersect. He says there is an existing dirt road that winds up to Panorama Drive and ends up catching the paved part of Wabash further north at about 7th Street. He reports that the County and the City jointly adopted a specific plan of alignment about 20-25 years ago that indicated where the ultimate alignment of Wabash Avenue should be and he points that area out on the displayed map. He indicates that the tract proposes to improve that alignment.

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

Dr. Charles Irwin states his property is north of the annexation area and is surrounded on three sides by this development. He says he strongly supports this annexation because he would like to have a paved street to his house and the other normal utilities everyone else in Redlands has.

Ernie Givens, President of the Mentone Area Community Association states that there are five acre parcels in the orange groves in Crafton Hills and he asks whether that will apply to this tract of houses. Commissioner Hansberger says he does not think so, but he comments that he also feels strongly about parcel sizes in the Crafton area. However, he says this area is on the Freeway side of the ridge and connects to existing houses on 10,000 to 12,000 square foot lots. Mr. Givens asks whether there has been any mention of putting on- and off-ramps from the west to Wabash Avenue. Commissioner Hansberger says that is one of the things SANBAG hopes to ultimately achieve but says he does not think the developer is required to put ramps in. Mr. Givens says the traffic on Wabash Avenue is

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

horrendous now and says this project will multiply the problem ten times. He says he is against this annexation and hopes the Commission will vote against it.

Commissioner Hansberger says this annexation is logical and makes sense. He says Mr. Givens' concerns are totally valid but he does not think they need to be addressed here. He says he would like to meet with City and County staffs to discuss the condition of Wabash Avenue and issues that need to be addressed related to it.

Commissioner Sedano compliments the City for an excellent presentation.

Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows:
Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None.
Absent: None.

CONSIDERATION OF: (1) NOTICE OF INTENT TO ADOPT MITIGATED NEGATIVE DECLARATION FOR LAFCO 2994; AND (2) LAFCO 2994—REORGANIZATION TO INCLUDE HI-DESERT WATER DISTRICT ANNEXATIONS (ANNEXATION PROJECT 2005) – APPROVE STAFF RECOMMENDATION

LAFCO Legal Counsel Clark Alsop announces that he has a conflict on this item since his law firm of Best Best and Krieger also represents the Hi-Desert Water District. He leaves the hearing at 10:20 a.m. and the Commission is now represented by Special Legal Counsel Jeffrey Goldfarb of Rutan and Tucker.

LAFCO conducts a public hearing to consider an application submitted by the Hi-Desert Water District (hereinafter "the District") for annexation of four separate areas around the periphery of the District. Notice of this hearing was advertised as required by law through publication in The Sun and Hi-Desert Star, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made part of the record by its reference herein. Mr. Martinez shows slides of the four annexation areas. He says Area #1 contains 3,200+/- acres; Area #3 contains 9+/- acres; and that Area #4 contains 120+/- acres. He notes a correction to the acreage for Area #2, stating that it is 210+/- acres rather than 260 acres as listed in the staff report. He discusses the displayed aerial views of each area and its topography, noting that Area #1 includes land in and around the Town of Yucca Valley (hereinafter "the Town"); that Area #2 is within the Town and is owned by the U.S. Government; that Area #3 is in the southern portion of the Town and the two parcels are owned by the District; and that Area #4 is within the Town and 80 of the acres have been approved for a five-lot subdivision. He reports that the District indicates that the primary purpose for this proposal is to provide watershed protection within Areas #1 and #2 and to provide water service to the subdivision approved by the Town in 1994 in Area #4.

Mr. Martinez discusses the land uses, which he says are predominantly vacant with some scattered residential uses within Area #1. He notes that the land uses currently authorized in the area are outlined on pages four through six of the staff report. Mr. Martinez also notes that the chart on page five outlines the different County and Town land uses and the maximum development potential. He points out the correction in acreage for Area #2 to 210 acres with 42 maximum dwelling units instead of 52, which brings the total acreage/maximum dwelling units to 3,559 acres and 1,135 units.

Mr. Martinez discusses service issues, stating that since the areas are predominately vacant lands, current services provided or needed are minimal. He reports that the Plan for Service prepared by the District indicates that Areas #1 and #2 are being annexed for the purpose of providing watershed protection, which activities identified by the District relate to its designation as the Watermaster for the Warren Valley Basin and its responsibility for maintaining a safe yield for the water supply. He reports that the Plan for Service indicates that there are no immediate plans to provide water service except in

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

Area #4, but he says the District's water supply masterplan outlines that its facilities can provide for the additional demand if needed. He says the District acquired the two parcels in Area #3 and plans to construct an additional storage reservoir on one of the parcels. He says the District will provide water service in Area #4 to the five-lot subdivision and that the property owner/developer will be responsible for all costs and construction of all the facilities required for service. He reports that the only financial effect to landowners and residents in the area is the water standby availability fees that will apply upon annexation. However, he says the District has indicated that landowners will be given an opportunity to opt-out from these fees. Mr. Martinez states that the Commission's Environmental Consultant Tom Dodson of Tom Dodson and Associates prepared, and LAFCO staff advertised and circulated, an Initial Study and Mitigated Negative Declaration for this proposal and that no comments were received. He says that Mr. Dodson will brief the Commission on the environmental assessment.

Mr. Dodson states that this is an unusual situation and says that normally, since there are no proposed facilities or development, with the one exception, he would have recommended that the Commission adopt an exemption. However, he says the record shows that the Town adopted a Categorical Exemption for the five-lot development, which he did not believe was an appropriate environmental determination. He says he prepared an Initial Study and proposed Negative Declaration to examine the consequences of the development on the five parcels, and he reports that the effects were found not to be significant. He says the only resource issues that might have been a concern would have been the biological resources; however, due to the recent fire through that area, he says there are no remaining biological resources. He says there were two mitigation measures he felt appropriate for the Town to implement and that a Mitigation Monitoring and Reporting Program was prepared recommending that the Town implement the measures when development occurs. He says he recommends that the Commission adopt the Negative Declaration.

Mr. Martinez states that staff recommends approval of this reorganization for those reasons outlined on page 11 of 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) take the actions listed related to environmental review; (2) approve LAFCO 2994; and (3) adopt LAFCO Resolution No. 2907 setting forth the Commission's findings, determinations and conditions of approval for this proposal.

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

Commissioner Colven asks whether opting-out of the standby charge precludes someone from coming back in should water service be requested. Pat Grady, Assistant General Manager for the District, says that the agreement that would be executed between the District and the property owner, a copy of which is attached to the staff report, allows them to receive service in the future; but they will be required to pay the retroactive standby fees that were waived during the period the agreement was in place.

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

Janis Pask states she represents a small group of property owners, informally known as the "Boulder Ridge Property Owners, adjacent to the south corner of Area #2,". Mrs. Pask says she lives on Tish Trail and requests that street be included on the maps that are attached to the staff report. She says that some of the neighbors met with Mr. Grady and her husband talked to him by phone, and that one of their concerns was the implications of the District annexing this area currently under the jurisdiction of the Bureau of Land Management (BLM). She reports that based on their conversations, this group of property owners are in favor of this annexation because the BLM land is a pristine, unspoiled area, and an island refuge to some wildlife; and they support any movement that will help protect that land. She says the District wants to protect the watershed and stated it wanted to keep development to a minimum; and the property owners feel that if development happens, the District will do its best to minimize the impacts to this area and especially to the wildlife. Mrs. Pask submits a letter signed by property owners in Area #2 indicating that they "do not oppose the LAFCO 2994 proposal per se" but encourage the District to adhere to the policies stated in the LAFCO 2994 document relative to Area #2. She also states that one of the maps shows a section of the BLM land already subdivided into five-acre parcels and she

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

asks if anyone can clarify why it has already been subdivided. Chairman Biane says they will try to get her an answer.

Patrick Laughlin says he owns property located on Pioneertown Road, in Water Canyon in the southeast corner of Section 28, and says he is in the process of subdividing his property into four 40 acre sections. He asks how this annexation will affect his water rights since those rights go back to the original section. Commissioner Hansberger says they will try to get him an answer.

April Sall states she works for the Wildlands Conservancy which manages property adjoining some parcels to be annexed in Sections 29 and 30, Section 35 beyond the BLM land, and in Sections 25 and 26. She says they are in favor of watershed protection but are concerned about any settling pond construction that would occur and any effects on the wildlife corridors and whether there would be any mitigation for that. She also requests that they be notified by mail of any development plans taking place in that area so they can provide comments on the process.

David Seidner, a property owner in Section 32, states he just became aware of this proposal when he received the Notice to Landowners letter from LAFCO. He says he is just now gathering information and has concerns. Mr. Seidner says he is not opposed to annexation per se, because he thinks it is a great idea to protect the watershed. However, he says he sees no benefit to annexation because he never expects to receive water service from the District and would drill a well if he needed water. He notes that even if he were to receive service at a later time, the standby fee is not exempted but is deferred; and he would have to pay fees retroactive, which would not make sense financially for him. He says his primary concern is how annexation will affect his water rights. He says he is not within the watershed boundaries but is not sure whether he is within what is considered the adjudicated boundaries of the Warren Valley Basin, which he says has strict rules and regulations about how water is divided up. He says it would be helpful if someone could tell him how the boundaries of the adjudicated Basin differ from the watershed boundaries. Mr. Seidner says part of his concern is if his property is annexed, the District could say that since he is within the District's service territory, he is subject to the rules of the watermaster, which will limit his rights. He says other property owners in Sections 27 and 28 have requested exclusion since they are never going to receive water service and he requests that his parcel (APN 594-011-82) also be excluded.

Lee Pearl, General Manager of the District, says the District has worked closely with LAFCO staff on this proposal and says that people some time ago were invited to public meetings regarding annexation so they would know what the District was proposing and could ask questions. He notes that as a result of those meetings, there is minimal attendance at this hearing by property owners. Regarding Mr. Laughlin's question about his property in Section 28, Mr. Pearl says he can move forward and develop his property as it is subdivided; and he says if homes are built, they could be served by wells or hauled water. Mr. Pearl reports that the District is constructing a \$2.5 million water recharge basin at the base of Water Canyon and purchased all the land at the base of that Canyon to preserve that area, which is the key watershed area that serves the District's customers. He assures the Commission that the District has had no contact with developers and says this is entirely a District-initiated proposal. He says there may be some very low density development that could occur, but he says a waterline extension would not be cost effective for property owners in the area. Mr. Pearl says he does not know whether Mr. Seidner is within the adjudicated area, but says if he is, the District allows minimal producers with a County permit and approval of the watermaster to drill a well on their property or to be served by hauled water. He says annexation will not affect his water rights. He assures Mr. Seidner that if he does not want to have anything to do with the District, he will be able to do that; and says if he wants to be served in the future, he could be served, but at a very expensive cost for necessary infrastructure.

Commissioner Hansberger comments that the part that concerns him is a standby charge that could be attributed to some of the properties that are very remote from service and not likely to be served. He says if someone wanted to be served in the future, and the District had to build infrastructure to the property, he would be concerned that someone would have to pay a standby charge for something for which no infrastructure has previously been built. Mr. Pearl says that the opt-out option was developed to give those people who will never develop their property the option to indicate that they never want to be

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

part of the District. Mr. Grady says the District has a complicated, two-tier structure, but he explains that the standby charge for most parcels, because they are more than 2,640 feet from the nearest mainline, is about \$4 per acre per year on the tax bill. Commissioner Hansberger comments that since Mr. Seidner has 15 acres, after 10 years, he would have to pay about \$600 in retroactive standby charges to receive water service, which he says would not be that much money. He says that some of the wells in some of that region are not good and someone might decide they need water in the future, which was his concern.

Commissioner Nuaimi asks whether it might be feasible for the District to have an opt-in policy rather than an opt-out policy. He says then a property owner could make a conscience decision to opt-in. Mr. Grady responds that is something the District could consider. He says the exemption and deferral agreement attached to the staff report is a draft and has not been presented to the property owners yet, so there is room for negotiation and to consider other options. Mr. Pearl says Commissioner Nuaimi's point is good, but he assures him that the District will contact all property owners to be sure they are informed about the opt-out option so that someone who does not want to be part of the process is not included.

Chairman Biane asks why this charge would not be put to a Proposition 218 vote if this is a new tax. Counsel Goldfarb responds that he believes there was recent litigation on the extent to which a water standby charge would be subject to Proposition 218. He says he does not recall that conclusion but could get that information for the Commission. Commissioner Hansberger comments that annexed areas are typically subject to the existing taxes and are not subject to a vote. He says if the standby charge of the District currently exists, it probably is not subject to Proposition 218. Mr. Grady reports that this standby charge has existed for many years. He says the District's Legal Counsel Best Best & Krieger has determined the standby charge is not a Proposition 218 issue.

Commissioner Williams asks if the District would change to an opt-in program if the Commission requested that. She says she would feel better knowing that someone who wanted service could request it. She says that as the owner of property in the desert, she is offended when she receives a letter that says she is getting some service for which she has no use. Commissioner Hansberger comments that Commissioner Nuaimi's approach makes sense. He suggests that all property owners receive a written request indicating they have a certain amount of time to indicate whether they wish to opt-in or opt-out related to the charge. He says if no response is received, a second letter could be sent indicating that if a response is not received by a certain date, they will be included in the charge. He says that will put the onus on the property owner to choose whether to be in or out.

Commissioner Cox asks for clarification from Mr. Pearl as to whether the District would be willing to change from an opt-in rather than an opt-out option. Mr. Pearl responds that he has not discussed an opt-in option with his Board. He says he understands the concerns expressed and will bring them to the Board's attention for further discussion of how to deal with the standby charge. He reports that Proposition 218 was discussed with the District's Legal Counsel and the opt-out program was developed. He says the property owners present at the public meetings felt it was a thoughtful program that they could indicate they never wanted to have anything to do with the District and opt-out of the charge by signing the agreement.

Commissioner Luellig points out that in Barstow, at the time a sewer system was put in about 50 years ago, people did not want to participate so now, because the people did not opt-in to the standby charge, it is about a \$4 million process to buy-in. He says they have to pay for all those years they did not want to participate. He asks if someone opts-out of the standby fee, what the process is to get back in 40 years later. Mr. Pearl responds that property owners will be able to pay back the fees and receive service. He asks that the Commission keep in mind that this is a mountainous area and says there will not be a lot of development pressure. He says he will go to the Board and indicate there was a good discussion on the opt-out option and make sure that is the best decision to move forward with.

Commissioner Pearson says he is concerned that there are still some answers that are not clear. He says that Mr. Seidner, as well as all the people in that area, must know whether they are part of the adjudicated Water Basin; and, if they are, they must know what restrictions are imposed on them. He says the District Board has approved an opt-out option, but he says he thinks an opt-in option is an

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

innovative approach, which should be reviewed and discussed with the Board. He recommends that the hearing be continued so that these issues can be looked at by the District's Board and the matter brought back to the Commission.

Commissioner Cox states that she is comfortable with this proposal, especially since it is from a watershed preservation and management perspective and not a development perspective. She says she believes Mr. Pearl will take the message back to his Board that the Commission is concerned that the residents be dealt with in good faith, and she says she is prepared to vote on this today.

Commissioner Nuaimi asks about the concerns expressed by Ms. Sall about how the District's potential improvements might affect the wildlife in that area. Mr. Pearl says that he met with Ms. Sall prior to this meeting. He reports that the District has no plans to do any further recharge up into the Water Canyon area and says he thinks her concern was, if the District did have such plans, what the environmental impacts would be. Commissioner Nuaimi asks whether a separate environmental process would have to be undertaken if something was done in the future related to that. Mr. Pearl responds that is correct and says there is currently no proposal to do that.

Commissioner Hansberger says that he believes the issues raised today can and will be dealt with at the local level. He says he is voting for this with the understanding that the District will work closely with property owners for their individual protection. He says he does not believe Mr. Seidner is adversely affected and he can develop his own water on his property if he chooses to do so.

Chairman Biane calls for further discussion or objections to the motion. There being none, he calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: None.

(It is noted that Legal Counsel Clark Alsop returns to, and Special Counsel Jeffrey Goldfarb leaves, the hearing at 11:10 a.m. Chairman Biane and Commissioners Nuaimi, Hansberger, Williams and Curatalo previously announced they have conflicts on the next item and will abstain from voting. They leave the hearing at 11:10 a.m.)

Vice Chairman Colven assumes the Chair.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3004; AND (2) LAFCO 3004 – CITY OF UPLAND ANNEXATION NO. 61 (SOUTHWEST ISLAND) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider an annexation initiated by the City of Upland of a totally surrounded island encompassing approximately 122 acres, generally located east of Central Avenue and north and south of 11th Street. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

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 reference herein. Mr. Tuerpe states that in staff's view, this proposal is a ministerial action and that the Commission must approve this annexation based on Government Code Sections 56375(a) through 56375.5 requiring approval of island territory if basic determinations are made. He says if the Commission makes the five findings listed in the staff report, State law eliminates the protest provisions for landowners and voters and directs that the protest proceedings be waived, as authorized by Government Code Section 56375.3. He discusses the history of the College Heights Island, formed over 30 years ago, of which this island is a portion. He says it is staff's position that this island was created prior to January 1, 2000, and is currently totally surrounded by the City, as outlined in

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

the staff report, so this proposal meets the requirements of Government Code Section 56375.4. He notes that the Commission adopted Policy 29 on March 31, 2005, requiring cities proposing to initiate an island annexation to conduct a public relations effort in the area prior to adoption of its resolution of initiation and he reports that the City held a community meeting on July 26, 2005. Mr. Tuerpe says staff provided notice of this hearing to landowners and voters within and surrounding the annexation area and says that one written protest was received, a copy of which is attached to the staff report.

Mr. Tuerpe summarizes the land uses in the annexation area, which are currently a mix of developed and vacant lands, as outlined in the staff report. He reports that the developed lands include mixed-use commercial, residential and industrial development. He says the City's General Plan land use designation for the area is Commercial/Industrial-Special Purpose; that the current County land use designations are General Commercial, Service Commercial and Community Industrial; and that the land use determinations between the City and County are generally compatible. He says the City has zoned the annexation area Light Industrial and Highway Commercial. He shows various photos of the annexation area.

Mr. Tuerpe reviews the services to be provided by the City, as outlined in the staff report and the Plan for Service attached to the staff report. He says there will be no effect on existing septic system users unless the septic system fails or there is an expansion project requiring sewer service. He says water service is currently provided by the City and the only change is that the monthly charges will be cut in half. He reports that upon annexation, fire and paramedic service and law enforcement service will transition to the City and notes that the County Fire Department supports annexation as it will provide quicker response times. Mr. Tuerpe says residential and commercial rates for solid waste will increase due to the City's plan to move towards a franchise system from a permit system to integrate recycling processes. He notes that businesses will be required to obtain a City business license.

Mr. Tuerpe states that the Commission's Environmental Consultant Tom Dodson and Associates has reviewed this island annexation proposal and recommends that it is statutorily exempt from the California Environmental Quality Act based on the finding that the Commission's approval is ministerial.

Mr. Tuerpe says that it is staff's position that the Commission is required by Government Code Section 56375(a) to approve this proposal. He says staff also believes the following mandatory findings required by Government Code Section 56375.3 can easily be made, so no protest will be allowed: (1) the area comprises a total of 122.30+/- acres, which makes the island less than the 150 acre threshold; (2) the area is entirely surrounded by the City and the area is wholly within the City's sphere of influence; (3) the area is substantially developed or developing based on the presence of existing development in the area and the availability of public services; (4) the area does not contain any prime agricultural land; and (5) the area can benefit from the availability of municipal services from the City, as reflected in the Plan for Service. He notes that a condition of approval has been included in the draft resolution regarding streetlighting responsibilities currently paid by County Service Area SL-1, which will transfer to the City upon completion of the annexation. He says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) adopt the Statutory Exemption and direct the Clerk to file a Notice of Exemption; (2) approve LAFCO 3004 as an island annexation, with the listed conditions; (3) waive the protest proceedings, as authorized by Government Code Section 56375.3; and (4) adopt LAFCO Resolution No. 2905 setting forth the Commission's findings and determinations concerning this proposal.

Commissioner Cox moves approval of staff recommendation.

Vice Chairman Colven calls on Steve Dukett, Redevelopment Director for the City, who has requested to speak.

Mr. Dukett says that based on comments made by the Commissioners who excused themselves from this hearing, he wanted it to be clear that this is solely the City of Upland's proposal and that there is no property owner in the area that has initiated this application. Mr. Dukett says he was before the Commission in May of 2005 regarding LAFCO 2978, at which time the Commission requested that the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

City proceed with the annexation of the balance of the College Heights Island. He reports that he took that request back to the City Council at its next meeting, and says the Council authorized staff to initiate the process for annexation of this island. He thanks Ms. McDonald and Mr. Tuerpe for their excellent staff work. He points out that this is the City's last island annexation and says the only area left in the City's sphere is San Antonio Heights; and he says there is no talk about dealing with that issue.

Commissioner Pearson thanks the City for responding to the Commission's request. He seconds Commissioner Cox's motion.

Vice Chairman Colven closes the hearing. He asks for any objections to the motion. There being none, the voice vote is as follows: Ayes: Colven, Cox, Luellig, Pearson. Noes: None. Abstain: Biane, Hansberger, Nuaimi (Luellig voting in his stead) and Williams.

(It is noted that Chairman Biane and Commissioners Nuaimi and Williams return to the hearing at 11:26 a.m. Commissioners Hansberger and Curatalo are absent.)

**INVENTORY OF COMMUNITY SERVICES DISTRICTS AND AUTHORIZED POWERS – NOTE
RECEIPT**

(It is noted that Chairman Biane must step out of the hearing and asks Vice Chairman Colven to continue chairing the meeting.)

LAFCO reviews an inventory of services and functions for Community Services Districts (CSDs). Notice of this item has been 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 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 states that the new requirements of Senate Bill 135, the rewrite of CSD law, require that "latent functions" be defined as those functions LAFCO recognizes as not being active as of January 1, 2006. She reports that when LAFCO seated Special Districts, it was required to identify the services the Districts were providing in 1976. She says those services have been identified and each of the nine CSDs were requested to provide an identification of which services are currently active. She says an outline of the responses received from all the CSDs, except for Big River CSD, is included in the staff report. She says the staff recommendation is that the Commission: (1) note receipt of the staff report and outline of active services; and (2) direct the Executive Officer to include this information in future municipal service review/sphere of influence updates for affected CSDs.

(It is noted that Chairman Biane returns to the hearing but does not assume the Chair.)

Commissioner Sedano tells Vice Chairman Colven that he called the Big Bear City CSD's General Manager and complimented him for the great report he provided. He says that by reading the report, he knew exactly what is going on in that CSD. Vice Chairman Colven comments that having a library in their community has always been something close to his heart since there is a great number of school age children in the community.

Commissioner Pearson moves approval of staff recommendation, seconded by Vice Chairman Colven. The voice vote is as follows: Ayes: Biane, Colven, Cox, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: Hansberger.

(It is noted that Chairman Biane assumes the Chair.)

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

MID-YEAR BUDGET REVIEW

LAFCO undertakes its Mid-Year Budget Review. Notice of this review has been advertised through publication in The Sun, a newspaper of general circulation. Individual mailed notice of this hearing was provided to affected and interested agencies and County departments.

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 states that the information being presented to the Commission shows that it has received 99% of its anticipated revenues, noting that the revenues include fees received for the County Fire Reorganization and the City of Fontana's reorganization to annex its 32 separate island areas in a single application. She says the Commission has incurred 48% of its anticipated expenditures. She explains that the expenditures for Temporary Services are elevated due to the increased workload and the need to use temporary staff through the County-authorized vendor to assist with copying, collating and circulating materials and mailing landowner notices; and she says staff is requesting an increase in the line item for Temporary Services. She also notes that expenditures for Training, Office Expense and Other Travel are also elevated.

Ms. McDonald discusses that on the basis of the activity level and the complexity of the proposals to be considered, staff is requesting authorization to negotiate a contract with Orange County LAFCO to contract for staff support services, if authorized by that Commission at its January 27, 2006 hearing. She says that if the Orange County Commission does not support such a contract, staff is requesting that it be directed to return with a Request for Proposal for an outside consultant to provide the information gathering services in order to meet the requirements to complete the municipal service reviews/sphere of influence updates for the North County agencies. She reports that of the 42 agencies in the North County region required to have service reviews/sphere updates, a number have not submitted the required documents and some have submitted incomplete documents. She says that staff's priority is processing the jurisdictional changes; and, in order to stay on track for the service reviews, staff is requesting authorization to move forward to receive additional staff support.

Ms. McDonald says she is requesting that the Commission authorize the payment of merit salary increases for Samuel Martinez, Debby Chamberlin and Angela Schell based upon their performances over the past calendar year. She notes that Michael Tuerpe has not completed his probationary period and is not eligible for this consideration.

Ms. McDonald states that the staff recommendation is outlined on page one of the staff report and includes that the Commission: (1) approve an increase in appropriations for Account 2335 Temporary Services to \$2,500 and approve a decrease in appropriations for Account 6000 Contingencies of \$2,250; (2) authorize the Executive Officer to negotiate with Orange County LAFCO to contract for support services; and, if such a contract is not supported, direct the Executive Officer to return with a Request for Proposal for an outside consultant to provide information gathering services to complete the service reviews/sphere updates for the North County agencies; and (3) authorize the payment of Merit Salary Increases from Account 1000 (Salary Reserves – Merit Increases) to three LAFCO employees for Calendar Year 2005 as outlined in the staff report.

Chairman Biane asks whether there is anyone present wishing to speak on this item. There is no one.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Biane calls for objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Nuaimi, Pearson, Williams. Noes: None. Abstain: None. Absent: Hansberger.

PENDING LEGISLATION

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

Executive Officer Kathleen Rollings-McDonald states that 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, includes the CALAFCO Legislative Chair Report, which outlines the changes which took effect on January 1, 2006.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald says the Commission has been presented this morning with a Memorandum from Best Best & Krieger on the Political Reform Act rules regarding gift limitations. She says Legal Counsel Clark Alsop will answer any questions. There are none.

Ms. McDonald reports that the CALAFCO Staff Workshop will be held April 26-28 in Lake Tahoe. She requests authorization for the staff to participate in that Workshop and close the staff office Wednesday through Friday. She also requests authorization for staff to travel out-of-state since they must fly into Reno, Nevada.

Chairman Biane asks if there is any objection to the requests and there is none.

Ms. McDonald reports that the terms of office for Commissioners Williams and Luellig expire in May and says the nomination process has been initiated by the City Selection Committee. She says nominations will close on January 23.

Ms. McDonald reports that the next hearing will be February 15 and says that agenda will include two continued items related to Redlands annexations, the report related to LAFCO 2919 for the San Bernardino Valley Water Conservation District, and a recommendation for denial of LAFCO 2881, the sphere removal submitted by the Bloomington Incorporation Commission. She reports that staff is processing a number of applications and is aware of two more cities, San Bernardino and Montclair, that will be initiating island annexations. She says the City of San Bernardino is initiating annexation of the Arrowhead Springs area and that application should be received in the near future. Chairman Biane asks whether the City has been informed that it should annex all of its islands or the Arrowhead Springs annexation would be in jeopardy. Ms. McDonald responds that the Commission's position on that issue has been made very clear to City staff.

COMMISSIONER COMMENTS

Commissioner Sedano announces that Mr. Alsop's birthday is tomorrow and he wishes him a Happy Birthday on behalf of the Commission.

Commissioner Colven comments that staff is very deserving of the merit increases and thanks Ms. McDonald for recommending them. He comments that the results of the MSR questions were very fascinating.

Chairman Biane reports that he attended a CALAFCO Executive Board meeting this month. He says there will be a proposal for an increase in the CALAFCO annual dues. He says CALAFCO has been part of a dialog, but is not taking a position, related to the infrastructure bond to be proposed by the Governor, which he says will probably come with some kind of land use reform built into it. He says that some of the discussion has been about LAFCOs expanding their roles and doing more. He reports that the Board's position was "no thank you, our plates are full with the budgets we have to do the work we are doing."

Commissioner Williams asks about new chairs. Ms. McDonald reports that they have been ordered.

COMMENTS FROM THE PUBLIC

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 18, 2006**

Tom Crowley, Assistant General Manager of the San Bernardino Valley Water Conservation District, says that as part of the municipal service review, the District felt it was important that the Commission, staff and public come to a tour of its facilities. Mr. Crowley says the tour is scheduled for January 31 at 10:00 a.m. in the District's spreading grounds in the Santa Ana River area. He says he hopes everyone will come and see the facilities and the Plan B process and get a feel for what the District is doing in the Santa Ana River Wash area and the Bunker Hill Basin. He leaves flyers with Clerk.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 11:45 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Chairman