MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JULY 21, 2004

REGULAR MEETING **9:00 A.M.** **JULY 21, 2004**

PRESENT:

COMMISSIONERS:	**Jim Bagley, Chairman**	**Richard P. Pearson**
	Bob Colven	**A.R. "Tony" Sedano, Alternate**
	James V. Curatalo, Alternate	**Gerald Smith**
	Neal Hertzmann, Alternate	**Diane Williams**

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

ABSENT:

COMMISSIONERS: **Paul Biane**
Dennis Hansberger, Alternate
Clifford Young

REGULAR SESSION - CALL TO ORDER - 9:04 A.M.

Chairman Bagley calls the regular session of the Local Agency Formation Commission to order. Commissioner Colven leads the flag salute.

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

APPROVAL OF MINUTES FOR REGULAR MEETING OF JUNE 16, 2004

Chairman Bagley calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Colven moves approval of the minutes as presented, seconded by Commissioner Pearson. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar, which Chairman Bagley states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the month of June 2004 and noting cash receipts. A Visa Justification for the Executive Officer's expense report, and a staff report for the reconciled payments, have been prepared and a copy of each 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 approve the Executive Officer's expense report and payments as reconciled for the month of June and note the cash receipts.

Chairman Bagley asks whether there is anyone present wishing to discuss the consent calendar items. There is no one.

Commissioner Colven moves approval of the consent calendar, seconded by Commissioner Williams. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

Chairman Bagley announces that since there are so many people present this morning for the Hesperia reorganization proposals (Items 9 and 10), the Commission will hear those items out of order.

DISCUSSION ITEMS

CONSIDERATION OF: (1) ADDENDUM PREPARED AS CEQA RESPONSIBLE AGENCY TO DETERMINE THAT NO SIGNIFICANT CHANGES OR NEW SIGNIFICANT IMPACTS HAVE OCCURRED AND THAT THE FOLLOWING DOCUMENTS PREPARED BY THE CITY OF HESPERIA ARE ADEQUATE FOR USE BY THE COMMISSION AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2952: NEGATIVE DECLARATION PREPARED FOR OAK HILLS COMMUNITY PLAN PRE-ZONING (ZC-2003-11) AND FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF HESPERIA FOR OAK HILLS COMMUNITY PLAN (STATE CLEARINGHOUSE NO. 96031031); (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2952 - CITY OF HESPERIA REORGANIZATION NO. 2003-01 INCLUDING ANNEXATIONS TO CITY OF HESPERIA, HESPERIA FIRE PROTECTION DISTRICT, HESPERIA WATER DISTRICT AND HESPERIA RECREATION AND PARK DISTRICT AND DETACHMENT FROM COUNTY SERVICE AREA 70, IMPROVEMENT ZONE J (CATABA AREA) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a reorganization proposal (LAFCO 2952--Cataba area) which includes annexation of approximately 893 acres to the City of Hesperia (hereinafter referred to as "the City"), the Hesperia Fire Protection District (hereinafter referred to as "the Fire District") and the Hesperia Water District (hereinafter referred to as "the Water District"), with detachment from County Service Area 70, Improvement Zone J (hereinafter referred to as "CSA 70 Zone J"), and annexation of approximately 464 acres to the Hesperia Recreation and Park District (hereinafter referred to as "the Park District"). Notice of this hearing has been advertised as required by law through publication in The Sun, the Daily Press and the Hesperia Resorter, newspapers of general circulation in the areas. Individual notice was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters inside and surrounding the proposal areas pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald provides background information related to the two proposals, LAFCO 2952 and LAFCO 2953, noting that the Commission considered two applications about 11 years ago addressing the Oak Hills community (this background information is outlined in the staff report for LAFCO 2953). Ms. McDonald says the applications included a sphere of influence expansion request (LAFCO 2736) from the City to include all of the Oak Hills community and a proposal from the residents in Oak Hills to create a County Service Area (LAFCO 2733) to encompass the majority of the area serviced by CSA 70 Zone J. She reports that both proposals were reviewed and considered over several months and that ultimately the Commission denied both applications to allow a review of governance for Oak Hills without all the controversy the proposals had generated. She says the community of Oak Hills studied a possible incorporation, including a sphere reduction for the City, and that the City responded with another sphere expansion request to include all of CSA 70 Zone J (LAFCO 2763) and an annexation of territory along the I-15 Corridor (LAFCO 2764). She says the Commission ultimately approved the expansion of the spheres of the City and its related special districts to include the whole of the CSA 70 Zone J area as a definition of the Oak Hills community, with three conditions as listed in the staff report for LAFCO 2953. Ms. McDonald says that with those adopted conditions for its sphere expansion, the City withdrew its reorganization application and began the process to prepare a community plan for the entire community of Oak Hills. She says the City adopted the Environmental Impact Report (hereinafter referred to as "the EIR") and the Oak Hills Community Plan (hereinafter

referred to as "the OHCP") in August 2002, culminating a ten-year process; that the County adopted the EIR and Community Plan in February 2003; and that the City completed its pre-zoning of the OHCP area in compliance with the Community Plan and General Plan designations in December 2003. She says that today's hearings are the culmination of that ten-year process.

Ms. McDonald notes that last month the Commission received the environmental documents, including the City's Final EIR, Statement of Overriding Considerations and Initial Study for the Negative Declaration. She says the Commission is being presented today, under separate cover, with an Addendum to the EIR and a Draft Finding of Fact and Statement of Overriding Considerations prepared by Tom Dodson & Associates. She says Mr. Dodson will discuss the environmental review for these two proposals.

Tom Dodson of Tom Dodson and Associates, the Commission's Environmental Consultant, states that the Commission has been presented with many environmental documents related to the OHCP EIR which was prepared and certified by the City and the County of San Bernardino. Mr. Dodson says the Commission, as a responsible agency, is relying on the documents prepared by the City. He says that the EIR contains the primary set of information that lays out the impacts of the ultimate development of the full 17,000 acres within the OHCP. He says that the City was required to pre-zone the annexation areas and prepared a Negative Declaration for that pre-zone that was "tiered" off the EIR. He points out that the City is only annexing a little over 3,000 of the 17,000 acres and says that to be able to make that clear for the Commission's action, he prepared an Addendum. He says the Addendum says that the impacts are essentially the same for the project, but what the Commission is doing is a little bit different than what was addressed within the whole OHCP. He says the two annexation applications have been addressed in the Addendum and he says he went though all the environmental documentation that had been prepared and brought forward the relevant facts to: (1) verify that they had been addressed for the Commission; and 2) ensure that there had not been changes in circumstances that would cause additional adverse impacts to occur in the intervening time that the Final EIR was certified and the date of the action today. He says he concluded that even though there have been some minor changes in the circumstances that would effect the conditions within the area, they fall within the scope of the original document. He says there were significant impacts identified in the EIR, primarily related to circulation system and air quality impacts, which are clearly identified in the Statement of Overriding Considerations and that the Commission is indicating that it understands that those significant impacts are occurring and that the actions on LAFCO 2952 and LAFCO 2953 may contribute to those impacts becoming a reality. Mr. Dodson says that the Commission has all documentation required to take the actions outlined in the staff reports.

Ms. McDonald presents the staff report for LAFCO 2952, a copy of which is on file in the LAFCO office and is made part of the record by its reference herein. She outlines the annexation areas on the maps provided in the powerpoint display, noting that the primary area encompasses approximately 893 acres (annexations to the City Fire District and the Water District, with detachment from CSA 70 Zone J) and that the separately defined area of approximately 464 acres will be annexed to the Park District. She says the existing land uses within the area are primarily vacant, with some scattered residential development comprising a mobilehome park, a recreational vehicle park and minor commercial uses. She notes that there are 154 voters in the 893 acres, primarily in the mobilehome park. She discusses the existing land uses surrounding the area. She summarizes the land use designations, as outlined in the staff report.

Ms. McDonald discusses service issues, stating that the service needs are minimal since the land is primarily vacant, except for the mobilehome park. She says the OHCP anticipates a higher level of service need than currently exists and she reports that the City has submitted a Plan for Service indicating that it can extend its services to the area upon annexation. She discusses that the primary element
related to this area is water service, which is the responsibility of CSA 70 Zone J. She says a portion of the Plan for Service addresses the need for the exchange of systems between the Water District and CSA 70 Zone J. She says staffs of the Water District and the County Special Districts Department have addressed the issues of the exchange of water systems for this area and have addressed agreements to

transfer facilities, outline the maintenance of the integrity of the Zone J system following annexation and address those facilities that must be retained by CSA 70 Zone J. She explains that in the processing of this application, LAFCO staff indicated to the Water District and the Special Districts Department that this proposal would not be placed on an agenda until an agreement related to the transition of water service was reached. She reports that a draft agreement is attached to the staff report. She says staff is also recommending a condition that, if the Commission approves this annexation, the protest proceeding will be held in abeyance, for a period not to exceed six months, to allow for submission of the final agreement. She says no concern has been expressed by the Water District or the Special Districts Department regarding the implementation of that condition.

Ms. McDonald summarizes sewer, fire and park service issues, as outlined in the staff report. She states that sewer service does not exist in the reorganization area but will be required for the commercial development anticipated. She says the Water District is the sewer provider in this general area. She reports that concern has been expressed by the County Fire Department regarding the continuing erosion of fire funding through the detachment of County Service Areas 38 and 70. She notes that the Fire District has responded that there are mutual and automatic aid agreements in place that should address any concerns of the County as far as on-going service provisions. She reports that during the interim, a contract was entered between the Fire District and the County Fire Agency for County Fire to provide fire service within the Fire District's boundary. She says the entire reorganization area is designated as a State Responsibility Area for wildland fires and says that upon annexation, this designation will be removed and the financial obligation for that service will transition to the City. She says the City and Fire District have indicated they will contract with the California Department of Forestry for an ongoing wildland fire contract. She discusses that the Park District can provide its recreation functions and has identified its financing mechanisms. She says the Park District also provides streetlighting services within its boundaries and this area will be included within its existing landscape maintenance districts.

Ms. McDonald states that Mr. Dodson has identified the environmental issues and she says the actions required to be taken, if the Commission approves this proposal, are outlined in the staff report. She says the findings required by State law and Commission policy are also outlined in the staff report and are made a part of the record by their reference herein. She reports that 231 notices were provided to voters and landowners within the area and 222 notices were provided to voters and landowners surrounding the area. She says no written comments or protests were received. She says Finding No. 9 identifies the overlaying agencies and says County Service Areas 38, 70 and 70 Zone J will be detached and that County Service Area 60 will continue to overlay the area. She notes that the detachment of CSA 70 Zone J will require that all landowners within the annexation area be provided individual notice of the protest proceeding.

Ms. McDonald states that staff supports this annexation for those reasons outlined in the conclusion portion of the staff report. She says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) take the actions listed related the environmental review; (2) approve LAFCO 2952, subject to the listed conditions; and (3) adopt LAFCO Resolution No. 2830 setting forth the Commission's terms, conditions, findings and determinations.

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

Dave Reno, Principal Planner for the City of Hesperia, says this land has access to Highway 395 and Main Street; that it is planned for mostly commercial and light industrial uses; and that it is valuable to the City's future plans. Mr. Reno says a medium high density land use is planned on the east side of the Oro Grande Wash because of the mobilehome park and its projected expansion and says the area west of the powerline easements, which is not in the annexation area, will require 2 ½ acre lots. He says the City is ready to provide full services to this area and that everything is based on the OHCP that was adopted by the City and the County after many years of effort. He reports that sewer service will be available to the mobilehome park and the commercial/industrial uses and says a sub-regional plant is being planned for somewhere on the west side of the Freeway which will benefit this area. He reports there will be an agreement between the City and the County to separate the CSA 70 Zone J water system which will

provide a time frame for completion of facilities that will keep Zone J whole so it can continue to serve its customers. He says a new fire station is in the works on the west side of the Freeway; that over $800,000 has been collected for that station from two previous assessment districts; and that the City has contracted with County Fire to provide the same level of fire service that currently exists in the County. He says the Park District will use its existing landscape and lighting districts to maintain the streetlights and public landscaping in the area. He notes that the City has paved over 100 miles of roads in the last five years and has collected development impact fees that fund all aspects of City services. Mr. Reno discusses the mobilehome park in the area and says it needs City sewers to expand. He reports that the owner of the mobilehome park supports annexation and he says City representatives met twice with the residents and property owners in the area and discussed the benefit of City services. He notes that trash service fees will go up between $4 and $8, but he points out that will be off set by a savings that the typical water users will see in their water bills. Mr. Reno says the City has done everything it needed to do related to planning for this area and he says it is time to take the next step. He requests that the Commission approve this annexation.

Commissioner Pearson asks whether the current alignment of Highway 395 is locked in. Mr. Reno responds that regardless of whether the alignment changes, Highway 395 will still be a thoroughfare, even if it is not a State highway, and that the City's circulation element recognizes Highway 395 as a primary north/south access.

Stan Nadolski, who moved from the area five years ago, asks where the City will get the money to support the $69 million budget it recently passed. Mr. Nadolski discusses that the City has done nothing with the Golden Triangle area. He says he has no qualms with the current City Council or City Manager, but says the Council elected when the City incorporated failed to uphold the Constitution of the United States. He discusses problems related the Assessment District 91-1 and says he was forced into that District against his will. He reports that the City used funds from the sale of bonds to subsidize the City's overall operations, while less than $7 million of the money was used to lay infrastructure. He says he does not want to see what happened to him and others in Assessment District 91-1 happen to anyone whose property will be annexed to the City. He asks what the City can do for the property owners that the County cannot. Chairman Bagley asks him whether he owns property in the annexation area. Mr. Nadolski responds in the negative, indicating that he owns property at Key Point and Amargosa Road.

Marjorie Mikels of Upland says she is an attorney representing a client who owns property in the Golden Triangle area. Ms. Mikels says her client did not receive any notice regarding the draft EIR or expansion of the mobilehome park, which is right across the street from her property. She discusses that her client's property is also in Assessment District 91-1; that her property, which is bare, vacant desert ground valued at $10,000 had a $1.2 million assessment placed on it by the City; and that the property taxes went from $100 a year to $60,000 every six months. She says that only about $7 million of the $20 million in bonds sold went into any improvements on the ground, while $14 million went into the City's general fund. She says the assessment district went into effect 12 years ago, but she says the money the City spent supposedly for a fire station has not been spent out there, nor did her client receive any drainage improvements on her property that she was told she would receive. She asks why nothing was mentioned this morning about a casino, which she says is being put in next door to her client's property. She says the City is being allowed to take people's property without any due process of law. She says that if the Commission approves this annexation, it is a violation of the United States Constitution.

Charles Nemake, a landowner in the area for 20 years, says he opposes annexation and does not want to pay City taxes for sewers, lighting, mosquito abatement, etc. He says the area is peaceful and wide open, with 2 ½ acre lots for the houses, but says now there will be commercial and industrial uses in the area. He asks who will provide the water, noting that when he first moved to the area, he paid $21 every six months and now pays $80 every two months; and that the cost will go up again. He says he lives on a dirt road which was graded one time in twenty years, only because Phelan Road was expanded and his road had to be used as a cutoff. He says the City's industrial complexes down I Street are in shambles and are a joke, and now the Commission wants to turn Highway 395 into something like that. He adds that there are no plans to widen Highway 395 from Phelan Road to the California Aqueduct.

Chairman Bagley asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing. He asks whether any Commissioners have any questions.

Commissioner Sedano says he has listened to these complaints, which sound serious. He asks what type of dialogue the City has had with the people over the past years. He says only three people have talked against annexation and asks whether there are a lot of people in favor of annexation.

Mr. Reno responds that the City met with the owner of the mobilehome park and invited the voters and other property owners to the meeting to talk about service issues such as water and trash. He says that two of the speakers' objections relate to Assessment 91-1 and are not a part of this annexation issue. He reports that there will be no new taxes for people on dirt roads upon annexation. He explains that any road tax would apply only to new development that goes in and is placed into a landscape and lighting district.

Chairman Bagley comments that what will occur is a change in where the decisions are made, either in the High Desert or in San Bernardino. Commissioner Pearson asks about the issue of people not receiving notice of the hearing, as mentioned in letters which have been presented to the Commission this morning.

Ms. McDonald says that the letters the Commissioners received this morning relate to LAFCO 2953, which will be addressed later. She says individual notice is mailed 21 days in advance of the hearing to voters and landowners, using the current assessment roll. She explains that some notices are returned because the address used to bill for tax purposes is inaccurate. In response to Commissioner Hertzmann, Ms. McDonald says that half of this area is already within the Park District's landscape maintenance district which funds streetlighting and she says the other half will be added upon development.

Commissioner Curatalo comments that Finding No. 5 in the draft resolution indicates that to date, no written comments have been received from landowners or voters. He asks whether Ms. McDonald is satisfied that the Commission is getting a clear picture from the residents and property owners. Ms. McDonald says that she is, pointing out that people are present today as a result of the notices sent. In response to inquiry of Commissioner Williams, Ms. McDonald explains that notice of the protest proceeding will be advertised in papers in the area and she says people can request to receive individual notice. She says this is a legally inhabited annexation and explains the protest level process.

In response to comment by Commissioner Pearson, Ms. McDonald explains that if annexation is approved, there is a condition requiring that the protest proceeding be held in abeyance for up to six months to allow the City and County time to complete the negotiations on the contract for the transfer of responsibility for the water facilities in the area. She says once that signed contract is submitted, the protest proceeding will be set in motion. She says staff will be required to send individual notice to landowners within the annexation area, many of whom are also registered voters. She says anyone living in the mobilehome park can request individual notice. She says staff will be sure it is providing all legally required notification of the protest proceeding. Chairman Bagley points out that notice of this hearing was advertised in The Sun, the Daily Press and the Hesperia Resorter. Ms. McDonald says the protest proceeding will also be advertised in those three papers.

Commissioner Colven asks what will happen if the agreement is not finalized within the six-month period. He also asks whether the City will be precluded from doing anything as far as establishing zoning during this six-month period. Ms. McDonald responds that this application will be terminated if the condition related to submitting a finalized agreement cannot be fulfilled. As far as zoning, she says the City has no land use jurisdiction beyond its pre-zoning until the area is annexed. She also notes that the City's pre-zoning designations must hold a minimum of two years unless certain findings are made by the City Council. Ms. McDonald notes that the Clerk has called to her attention that one of the e-mails presented to the Commission this morning relates to this annexation. She says Kathy Van Netta is not a property

owner in the annexation area but is a community representative whose concerns regarding solidifying the transfer of the CSA 70 Zone J facilities apply to both annexation proposals.

Commissioner Sedano asks whether there is anyone present from the Water District who can report on the negotiations on the draft agreement.

Mike Podegracz, City Engineer, reports that the draft agreement has been approved by both City and County staffs. He says it will go to the City Council on August 18 and then to the County Board of Supervisors in early September. He says there was an agreement executed in 1991 that addressed separation of the system and he says that agreement has been updated. He confirms for Commissioner Sedano that people on existing septic systems will not be required to hook up to the City's sewer system.

Commissioner Colven comments that the water situation concerns him because the State is in an excessive drought situation. He asks whether the City has seen any diminution via hydrology studies of groundwater and the City's ability to provide sufficient water for development in these areas. Mr. Podegracz says the City works closely with the Mojave Water Agency which updated its basin management plan and projected water usage in Hesperia and the High Desert for the next 30 years and identified what needs to be in place to meet future needs. He says the City is proposing new projects to help mitigate that, including bringing wet water into the basin out of the Aqueduct, working with the Mojave Water Agency to build a detention facility, and the wastewater reclamation facility mentioned earlier. Commissioner Colven inquires whether allowing the continued use of septic systems may potentially degrade the groundwater. Mr. Podegracz responds that the City has worked with the Lahontan Regional Water Quality Control Board on that issue and provided water samples to that agency. He says their studies have determined that development on half acre lots is not degrading to the water supply, but he says the City agrees that development on lots over one-half acre or with commercial/industrial uses should have sewer service.

Chairman Bagley asks if there is a motion.

Tom Dodson states that from the comments he has heard, there seems to be some confusion. First, Mr. Dodson says the OHCP has been adopted by both the City and the County; that the land uses are not changing; and that the only change will be a shift in jurisdiction as to who manages the implementation of the land uses in the future. Second, he says the EIR is not the Commission's but that the Commission, as responsible agency, is basing its decision on documents prepared several years ago by the City and the County. He says the Commission is using the City's EIR and is adopting an Addendum indicating it is relying on the EIR certified by the City.

Commissioner Smith says he is disappointed that he has heard no one say they have communicated with the City representatives. He says the City seems to have done everything it needed to do to get to this point.

Commissioner Smith moves approval of staff recommendation, seconded by Commissioner Colven. Commissioner Colven points out that they have heard from people opposing annexation but he asks where are the people in favor of annexation. Ms. McDonald responds that no support has been submitted nor official protest, other than what was received today. Commissioner Colven says it troubles him that they have heard from no one in favor of annexation, although he says people must know what is going on, as evidenced by those here today to protest. Ms. McDonald says the City worked with and surveyed the landowners in the area and she says the landowners also participated in the community planning for the area and with the County in its review of the expansion of the mobilehome park and its need for sewer service. She says people have participated in the planning process but did not submit official support. She says voters in the mobilehome park received notice of this hearing which provided the phone numbers of LAFCO and the City if they had questions. Commissioner Hertzmann comments that most people must be against something before they show up for a meeting, especially if they have to drive very far.

Chairman Bagley calls for further discussion. There is none. He says this proposal is moving to the next level and that there will be adequate time for people to mobilize opposition or support. He calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSIDERATION OF: (1) ADDENDUM PREPARED AS CEQA RESPONSIBLE AGENCY TO DETERMINE THAT NO SIGNIFICANT CHANGES OR NEW SIGNIFICANT IMPACTS HAVE OCCURRED AND THAT THE FOLLOWING DOCUMENTS PREPARED BY THE CITY OF HESPERIA ARE ADEQUATE FOR USE BY THE COMMISSION AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2953: NEGATIVE DECLARATION PREPARED FOR OAK HILLS COMMUNITY PLAN PRE-ZONING (ZC-2003-11) AND FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF HESPERIA FOR OAK HILLS COMMUNITY PLAN (STATE CLEARINGHOUSE NO. 96031031); (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2953 - CITY OF HESPERIA REORGANIZATION NO. 2003-02 INCLUDING ANNEXATIONS TO CITY OF HESPERIA, HESPERIA FIRE PROTECTION DISTRICT, HESPERIA WATER DISTRICT AND HESPERIA RECREATION AND PARK DISTRICT, DETACHMENT FROM COUNTY SERVICE AREA 70, IMPROVEMENT ZONE J, AND DISSOLUTION OF COUNTY SERVICE AREA 70, IMPROVEMENT ZONES R-41 AND R-43 (FREEWAY CORRIDOR) - CONTINUE TO SEPTEMBER 15, 2004

LAFCO conducts a public hearing to consider a reorganization proposal (LAFCO 2953--Freeway Corridor area) which includes annexation of approximately 2,190 acres to the City of Hesperia (hereinafter referred to as “the City”), the Hesperia Fire Protection District (hereinafter referred to as “the Fire District”) and the Hesperia Water District (hereinafter referred to as “the Water District”), with detachment from County Service Area 70, Improvement Zone J (hereinafter referred to as “CSA 70 Zone J”), annexation of approximately 2,139 acres to the Hesperia Recreation and Park District (hereinafter referred to as “the Park District”), and dissolution of County Service Area 70, Improvement Zones R-41 and R-43 (hereinafter referred to as “CSA 70 Zone R-41” and “CSA 70 Zone R-43”). Notice of this hearing has been advertised as required by law through publication in The Sun, the Daily Press and the Hesperia Resorter, newspapers of general circulation in the areas. Individual notice was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters inside and surrounding the proposal areas pursuant to State law and Commission policy.

Ms. McDonald presents the staff report for LAFCO 2953, 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 outlines the annexation areas on the maps provided in the powerpoint display, noting that the primary area encompasses approximately 2,190 acres (annexations to the City, the Fire District and the Water District, with detachment from CSA 70 Zone J). She says this area includes territory on both sides of the I-15 Freeway, extending from the existing City of Hesperia boundary on the north, down approximately four miles in a southerly direction to what is commonly called “the Summit”. She notes that at its widest point, the reorganization area is approximately 1 ¾ miles wide and approximately 1,000 feet wide at its narrowest point. She says the area to be annexed to the Park District encompasses approximately 2,139 acres. She says the proposal also involves dissolution of CSA 70 Zone R-41 (Tract 15999, Quail Summit) and Zone R-43 (Tract 16272). She says the existing land use within the area is primarily vacant, with some scattered residential development. She notes that there are 17 voters in the primary annexation area, an estimated nine dwelling units, and an estimated population of 20 persons. She discusses the existing land uses surrounding the area

Ms. McDonald says the boundaries of this proposal are the primary issue. She says concern was expressed about the division of the Oak Hills community into two separate parts and the issue of annexing only the commercial and industrial land uses. She discusses that staff tried to look at an alternative boundary while addressing the needs of the majority of landowners along the Freeway Corridor for water, sewer and fire protection services. She explains that in order to provide a good circulation pattern for service delivery, there are only two ways across the Freeway, one at Ranchero

Road in the northern portion and one at Oak Hills Road almost at the southern boundary of the annexation area. She says there was no superior alternative to cross the Freeway for a boundary modification so staff has reviewed the application as submitted for the entire Freeway Corridor.

Ms. McDonald says that the boundary for the OHCP addresses CSA 70 Zone J in its entirety and she discusses that with the annexation of this area to the Water District and the concurrent detachment from CSA 70 Zone J, the Zone J water system will be severed into east and west portions. She says the County, on behalf of CSA 70 Zone J, and the Water District have been negotiating an agreement for the transfer of service and facilities and she says LAFCO staff told both agencies that this proposal would not be placed on an agenda until an agreement in principal had been drafted. She notes that a copy of that draft agreement is attached to the staff report. She says staff has also recommended the same condition for this proposal that was approved for LAFCO 2952 that, if approved, protest proceedings be held in abeyance until the finalized agreement has been presented to LAFCO staff.

Ms. McDonald discusses the land use designations for this area, which have been adopted by the City and the County and are the same, as identified in the staff report. She says this proposal will transfer the responsibility for the OHCP to the City. She reports that there are no specific land use issues to be addressed and no known existing development plans in progress.

Ms. McDonald summarizes the service issues, which are outlined in the staff report, stating that water is of paramount concern to the residents outside the area, as well as those who govern CSA 70 Zone J and the Water District. She says it was previously reported that the transition of this service needs to be completed before annexation takes place and that a time line and method to accomplish that has been identified and discussed. She reports that there is no sewer service existing in the area and says the Plan for Service outlines how the City, through the Water District, will provide service for future development. She reports that the County Fire Department expressed the same concern as it did for LAFCO 2952 related to the erosion of funding with the detachment of CSA 38 and CSA 70. She says this area is also designated as a “State Responsibility Area” for wildland fire protection purposes and that the City will contract with the California Department of Forestry for wildland fire suppression services at those costs outlined in the staff report.

Ms. McDonald discusses that CSA 70 Zones R-41 and R-43 will be dissolved as a function of this reorganization and says the City will succeed to road maintenance services of these agencies and that the Park District will succeed to the streetlighting services. She explains that a service charge for those services is already included on each parcel’s tax bills.

Ms. McDonald says that Tom Dodson has identified and discussed the environmental issues for LAFCO 2952, and she says they are the same for this proposal. She says the Commission will need to take the actions listed in the staff report as a responsible agency.

Ms. McDonald says the findings required by State law and Commission policy are outlined in the staff report and are made a part of the record by their reference herein. She points out that Finding No. 5 indicates that 139 individual notices were mailed to landowners and voters within the reorganization area and that 581 notices were mailed to landowners and voters within 1,350 feet surrounding the area. She reports that when the staff report was prepared, only one letter of protest had been received. She says that in the interim, several letters have been received from landowners indicating opposition to being included in this annexation, copies of which have been presented to the Commission and are on file in the LAFCO office and are made a part of the record by their reference herein. Those letters are from Kathy Van Natta,Tom Seabold, George Letts, John Wiedefeld, Roger and Carole Matthews, and Mark Letts. She shows the parcels on a displayed map for which letters of opposition have been received. She notes that Finding No. 9 lists the overlaying agencies, none of which have expressed any concern. She says CSA 60 will continue to overlay the area.

Ms. McDonald states that staff wrestled with the configuration of this boundary and tried to find a modification that would fit the desires and needs of the landowners and still address the issues of the larger Oak Hills community and its residents who wanted only the commercial and industrial areas

annexed. But she says staff was not able to find a superior alternative. She says this reorganization complies with the Commission's policies and State law and that staff supports this proposal for those reasons listed in the staff report. She says the staff recommendation is listed on pages one through four of the staff report and includes that the Commission: (1) take the actions listed related the environmental review; (2) approve LAFCO 2953 subject to the listed conditions; and (3) adopt LAFCO Resolution No. 2831 setting forth the Commission's terms, conditions, findings and determinations.

Chairman Bagley asks if there are any questions for Ms. McDonald. There being none, he opens the public hearing and calls on Dave Reno for the City's presentation.

Dave Reno, Principal Planner for the City of Hesperia, states that many of the issues discussed earlier, including the level of police and fire protection services to be provided by the City, apply to this area also. Mr. Reno discusses the boundary issue related to this proposal and says the long stretch of land along the Freeway that extends through the community of Oak Hills does not divide that community any more than the railroad tracks which bisect the City do. He says there are two crossings in Hesperia, at Bear Valley Road and Main Street and that the City is working on a third at Ranchero Road. He says that in this area there are crossings at Joshua Road, Oak Hills Road and Main Street that will be used by residents and property owners in Oak Hills for circulation. He notes that the City's circulation element recognizes the interchange at Ranchero Road. He says the land use designations of the City and the County for the area are the same and says that upon annexation, there will only be a transfer of implementation duties. He says the land uses along the Corridor are commercial/industrial/suburban development and that the areas outside the Wash are recognized for rural residential 2 ½ acre lots. He discusses the pending agreement between the City and the County and says the City is looking at adding additional parallel facilities at the top of the Pass to preserve the integrity of the CSA 70 Zone J water system. He reports that the City will disburse a portion of the funds collected for the CSA 70 Zone R-41 and Zone R-43 tracts to the Park District for streetlighting and that the City will take over the road maintenance in those tracts through City resources. Mr. Reno discusses that the City, before filing this application, surveyed property owners and voters in a slightly expanded area. He points out on the map two "notch" areas, one along Verbena Road and another just north of Farmington Road, and says those areas were excluded prior to filing the application because a majority of those surveyed did not want to be annexed. He reiterates that this boundary was structured around voter and property owner input and reports that either no response or positive responses were received from property owners on the west side of the Freeway, including the area discussed earlier in the upper corner of the boundary. Mr. Reno says the property along the Freeway Corridor is valuable to the City for sales tax generation and local jobs. He says the property owners and residents of Oak Hills will enjoy the benefits of increased City and commercial services in the area and that it is time to complete this process that began over ten years ago.

Commissioner Pearson asks whether the City will keep the Oak Hills Advisory Committee in operation. Mr. Reno says that Committee will not continue but he says the City will continue to receive input from people in the area. Commissioner Pearson discusses that he thinks it would be good for public relations to keep that committee operating in order to receive input from the people in the City's sphere, especially those in the residential area. Mr. Reno says that the City will continue to receive and comment on referral memos from the County for all proposals in the Oak Hills area because it is in the City's sphere. He reports also that pursuant to the City's Planning Commission by-laws, an Oak Hills resident can sit on the Planning Commission. Commissioner Pearson comments that the Zone J area on the east side of the Freeway needs to be dealt with in the future and says the City should be working toward resolution of that situation as a follow up to the negotiations taking place. Mr. Reno responds that the City will probably have to build parallel lines to serve the City area and do what it can to keep the Oak Hills system functioning to serve its property owners. Commissioner Pearson comments that it is expensive to build parallel lines.

Mike Podegracz explains that the lines provide transmission and distribution from the CSA 70 Zone J supply sites, which are on the east side of the District, to the District's reservoirs on the west side. He says taking out those lines would prevent moving water back and forth so it was determined that the logical approach was to install a new system within the City.

Commissioner Sedano comments that with the number of people in opposition, there must have been a lack of communication. Mr. Reno reiterates that before the application was filed, the City surveyed the property owners and voters in an expanded area and says he has a record of their responses. He adds that many people were on mailing lists for the OHCP, so the City tried to keep as many people as it could "in the loop" over the past ten years. Commissioner Sedano comments that people are coming out in opposition then at the last minute.

In response to inquiry of Commissioner Smith, Mr. Reno says a County fire station on Oak Hills Road responds to calls in the Freeway Corridor area. He says if the City responded with mutual aid, it would be from the Station on Eleventh Street. Commissioner Smith discusses that he thinks commercial development in this area will be good for the City as it will bring in sales tax revenue and property values will go up.

Commissioner Bagley comments that if annexation goes forward, any possibility for a viable community of Oak Hills will be terminated because all the commercial zoning is in the area to be annexed. Mr. Reno responds that the question of a city for Oak Hills was exhaustively studied before the City considered its sphere expansion. He says it was concluded that the community of Oak Hills could not function as a city and provide the necessary services. He discusses that there are provisions in the OHCP to maintain the community identity, even though portions will be in the City.

The Commission adjourns for a break at 10:58 a.m. and reconvenes at 11:10 a.m., with no change in members present.

Chairman Bagley calls on those wishing to speak, stating they will each have three minutes.

Frelon Wayne Corwin, a resident of Oak Ridge Estates and member of the Oak Ridge Estates Home Owners Association, asks why the City is trying to cut a corner out of their community by annexing five lots which are part of their Association, which is a fenced, gated community. He discusses that the City wants developed land for the tax revenue that will be generated.

Jeff Jennings, a resident of Oak Hills within CSA 70 Zone R-41 since January, says the only notice he received was the one from LAFCO, which did not provide information about written protests, which is why he came today. Mr. Jennings says everyone in his neighborhood is opposed to annexation. He says they all bought their homes under the assumption they were in Oak Hills and do not want to be in Hesperia. He says the feeling is that Hesperia does not have the infrastructure to handle its own City so it wants to annex the residential part of Oak Hills. Chairman Bagley tells Mr. Jennings that the only alternative for Oak Hills is to seek incorporation and to do it immediately. Mr. Jennings says that if the annexation were held in abeyance for some time, the residents that are there now and those that will be moving in could have time to explore incorporation. He says there are more homes coming in and there may possibly be a tax base for Oak Hills to become a City. Chairman Bagley comments that upon annexation to Hesperia, the people will have a vote and can influence elections and participate in the planning process. Mr. Jennings says residents will come forward for the protest proceeding. He says he would not have bought his property had it been in the City of Hesperia.

Jeff Nelson, a resident of Royal Oaks Estates in CSA 70 Zone R-41, says he also received the notice from LAFCO and saw nothing about filing a written protest, which is why he is here today. Mr. Nelson says he spoke with eight of his neighbors and none are in favor of annexation. He says one part of a gated community is being split in half. He says he has lived in Royal Oaks since July of last year and has not received any survey request from the City. He reports that there are about 25 homeowners between Quail Ridge and Royal Oaks Estates who were not there one year ago. He says there will be 28 to 30 more homes built, but says those owners will not move in for six months to a year, yet they are being included in this annexation. He says he understands that the City wants to develop the commercial portions of Oak Hills along the Freeway Corridor and he respects that developers want half-acre lots instead of 2 ½ acre lots. However, he says it does not make sense to include the already-developed areas in this annexation. He says he is on his own septic tank, is already paying for streetlights, and

prefers that the Oak Hills area remain a 2 ½ acre rural residential area. He asks what will happen with congestion on Mariposa and whether the County will oversee zone changes for the annexed areas. He asks whether these boundaries can be redrawn and asks how the protest process works.

Chairman Bagley states that land use planning decisions will be decided by the City, if annexation is approved; and he says people can participate in that process at the Planning Commission level of the City. Ms. McDonald discusses the protest process, stating protest petitions can be submitted by landowners or voters. She says the key is that protest petitions must be circulated only during the time when the protest period has opened and says that if the petitions are dated before that time, they will be invalid. She notes that information and sample protest petitions are available on the LAFCO website.

George Letts, a property owner in the northern portion of the annexation area, says he was not notified that his property had been added into the annexation area nor, to his knowledge, was anyone else who owns property in the triangle area between Verbena Road and the Oro Grande Wash, which is zoned for 2 ½ acre parcels, notified. Mr. Letts says that in 1993 the City made it clear that it did not want to annex 2 ½ acre parcels. He says the City promoted a medium-low density permitting quarter acre parcels in that triangle area, but then agreed to stick with the rural plan for 2 ½ acre lots when 500 people protested. He says if the City is allowed to annex this area, it will rezone it to quarter acre lots so that developers can bring in sewers and water lines to provide infrastructure down the Freeway. He says the City made an agreement with the Oak Hills community not to include the 2 ½ acre rural lots in this annexation and he says information he was sent a few months ago did not include the annexation of his property.

Carolyn Woodside says they purchased a home three months ago in Oak Hills, which she understands is referred to as the “Beverly Hills of the High Desert”. Ms. Woodside says a home in Hesperia would have been more affordable but they chose to build a custom home in Oak Hills. She says they received nothing from the City notifying them about annexation and only received the letter from LAFCO indicating they could attend this hearing to receive more information. She says there was no where on the letter to oppose annexation and she was not aware who to contact in the City. She says the people in Oak Hills have custom built their homes there and want to be their own community and be able to incorporate some day. She says the City does not have the code of ethics or morals the property owners in Oak Hills want.

Gary Lewis, a resident of Oak Ridge Estates and President of the Oak Ridge Estates Home Owners Association, says theirs is a gated community and that five of their lots have been included in this annexation. Mr. Lewis says there is no access to those five lots except through the gated community. He says he has lived in this area for three and a half years and received no notices. He says, however, he has attended about all the meetings on this issue, but says most of the meetings are held at 7 p.m. and there often is not time for all those protesting to speak. He says he opposes annexation and asks once the City gets this area, what will it get next. He asks how they can get those five lots back into their community.

Ellen Zunino, an owner of property in Assessment District 91-1, states the City has always had a poor record in terms of commercial development. Ms. Zunino says the City also has a record of favoritism toward certain landowners, while ignoring others, and says she feels sorry for these people today. She says the City cannot take care of what it has and asks why it wants more.

Marjorie Mikels of Upland says the City is taking the heart out of Oak Hills and there will be no opportunity for a viable community. Ms. Mikels asks why these homeowners need to go forward with an incorporation movement now. She says she questions the Commission’s planning if it votes to break this area in two, giving the City the high sales tax and commercial areas. She says the City made promises to homeowners in Assessment District 91-1 that it never fulfilled and that people were assessed for millions of dollars even though there were no improvements on their property. She says there is no water for development out there and says the City wants to get a reservoir so it can get pressure needed for commercial development. She says no fire station has been built, even though people in Assessment District 91-1 paid for one. She points out that some people were excluded from the annexation area because they would have voted it down; but she says a gated community should not be broken up.

Carolyn Powles, a landowner in the annexation area, says that notification is the key. She says a vast majority of the residents who will be impacted by annexation have not moved onto their property yet and they are not on the tax rolls and have not received notification about annexation. She says the City is "jumping the gun" and should wait until the people have moved into their homes and understand the issues. She says the OHCP adopted by the City and the County has been enlarged and it took in a piece of her property that had not been included before. Ms. Powles says the City should be courting the homeowners, not strong-arming them, and should tell them why it is in their interests for Oak Hills to become part of the City.

Jose Navarrete, a landowner in the area, says he is building a home on Verbena Road. He says he bought the property because he wanted to live in Oak Hills, not Hesperia. He says he never received any notice, but was told about this proposal by a neighbor. He says he called LAFCO and was sent information, which he did not receive until July 12, so he has not had time to get legal representation. Mr. Navarrete says he is concerned about being taxed for his improvements and says he does not know whether he will have enough money to pay for them.

Skip Bond, a resident of Oak Hills and a member of the Oak Hills Citizens Advisory Committee, says it distresses him to hear talk come up again about a city of Oak Hills. He says that is a pipedream and that it does not make sense to think that a community without any businesses, with 2 ½ acre residential lots, could become a city. Mr. Bond reports that it was strongly stressed for the Community Plan that no development other than 2 ½ acre residential lots was wanted on the west side, west of the Oro Grande Wash, and says it is unfortunate that some of this annexation extends west of the Wash. He says it was the Advisory Committee's understanding that the annexation would be primarily of undeveloped properties, not occupied properties. He says if this annexation included his home, he would vote against it because he does not want to be part of the City. He comments that are many reasons for residents to object to being annexed to the City, but he says that could be done without people throwing rocks and mud at the City.

Carole Mathews says she has lived in the annexation area for five years and that the first notice she received about annexation was from LAFCO, and nothing had been received from the City.

Tom Sutton, Interim Director of the Special Districts Department, says his Department is in charge of operating and maintaining the CSA 70 Zone J water system. He reports that the agreement that has been discussed is in final draft and says negotiations have taken place to be certain that with these two annexations, the existing CSA 70 Zone J water system that remains will be left whole and functional. He says the agreement will be taken to the Hesperia City Council first and then will be taken to the County Board of Supervisors for final approval.

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

Commissioner Smith comments that he has a problem with the five lots in the gated community that have been included in the annexation. Mr. Reno says his understanding is that those five lots are not a part of the tract filed by Mr. Gallagher (Tract 16272). He reports that those parcels existed at the time the property owners were surveyed about annexation. He says those parcels were included since no negative responses were received and it was felt that it was more logical to make the division along a road.

Commissioner Smith asks whether the Commission can amend the annexation boundaries.
Ms. McDonald reports that the Commission can approve the proposal as submitted, modify and approve it or deny it. She says if the Commission modifies the proposal, adoption of the resolution should be continued for one month to address the area to be excluded.

Commissioner Smith states he would like to move to continue the hearing for one month to allow time for the City to communicate with the homeowners, possibly at a town hall meeting, since many people indicated they did not receive any notification from the City.

Ms. McDonald states that the notice provided by LAFCO outlined the area to be considered, gave the LAFCO telephone number and address, as well as who to call in the City if there were any questions about land use or City services. She says the landowner listing is prepared using the existing County assessment roll and that people can check with our office if they want to see who was notified. She points out that Mr. Navarrete was mailed a notice, but says his current mailing address is different than what is on the most current tax roll. She says another notice and additional information was sent to him at his request and says staff made every effort to provide notice to those people involved in this annexation. She notes that a number of people mentioned that the boundary of the annexation has changed. She reports that although it may have changed during the processing at the City level, there has been no change in the boundary of the application submitted by the City in December 2003 and processed by LAFCO staff. She points out that property taxes are based on the value of the land and do not change through annexation.

Chairman Bagley asks Commissioner Smith to clarify what boundary modifications he wants. Commissioner Smith says he wants the City to meet with the people who are protesting annexation. He says he sees a problem with the inclusion of those five lots and says the boundaries should be redrawn to exclude them, if that is what the people want. Commissioner Williams asks about the people in the new developments who bought their property under the guise that it would be Oak Hills and now are finding out they will be living in Hesperia.

Mr. Reno says the City can meet with the people to discuss the benefits of being part of the City. He says the only question is one of timing and being able to restructure the proposal boundaries in time for the next Commission hearing. Commissioner Williams suggests a 60-day continuance. Ms. McDonald says the Commission could continue the hearing to September 15 and direct the City to meet with the people in the developed areas who registered opposition. She says the City could then make recommendations on a possible boundary modification.

Commissioner Smith says his motion is what Ms. McDonald just stated. The motion is seconded by Commissioner Williams.

Legal Counsel Clark Alsop suggests that the public hearing not be closed if the proposal is continued because the City will be providing additional testimony.

Commissioner Pearson discusses that if the City can accommodate some of the people who have spoken in opposition today, that is fine. But he says they must draw the line somewhere and there will always be some unhappy people. He points out that Chairman Bagley indicated that if these people become part of the City, they will have an opportunity to participate on issues at the City level.

Mr. Reno says they will meet with the people and try to draw the boundaries according to what the property owners want, which is what the City did previously based on surveys received.

Commissioner Curatalo comments that the legal requirement for notification has been met, but he asks about going beyond what is legally required as far as notification. Mr. Alsop comments that the Commission's current policy regarding notification already goes beyond what is legally required. He says that is a policy issue, but says that the Commission has legally provided adequate notice.

It is noted that Commissioner Curatalo leaves the hearing at 12:05 p.m.

Commissioner Hertzmann says this seems to "fly in the face" of what LAFCO has been trying to do because it takes a jagged boundary and exacerbates it. He says this proposal divides the community down the middle; it preordains what will happen to the community; and makes the incorporation of Oak

Hills unlikely. He says that although he agrees with a postponement, it is not fair to continue to shrink the boundaries, leaving out the protestors, because they are dismembering the community.

Commissioner Sedano says the City did not do its work; that he is shocked at the number of people opposing annexation; and that the City gets an "F" in communication. He says if he could vote, he would not be in favor of a continuance but would be for denying the annexation as submitted.

Commissioner Bagley says he normally is in favor of larger annexation areas, but he says in this case, the annexation is going through a community of interest, which concerns him. He says the City has the burden to fix this problem and come back with a proposal that the people will buy-in to. He says the people, if they hope to have an incorporated city, need to look into that immediately or they will become a community that is annexed to Hesperia.

Chairman Bagley calls for a vote on the motion to continue this hearing to September 15, 2004. The vote is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

It is noted that Commissioner Hertzmann leaves the hearing at 12:10 p.m.

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION WITH MITIGATION MEASURES PREPARED BY COUNTY OF SAN BERNARDINO FOR TENTATIVE PARCEL MAP 16291 TO CREATE FOUR PARCELS ON 1.37 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#206; AND (2) LAFCO SC#206 - CITY OF UPLAND SEWER SERVICE AGREEMENT NO. SSA-2003-08-02 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO SC#206-City of Upland Sewer Service Agreement No. SSA-2003-08-02, a request submitted by the City of Upland (hereinafter referred to as "the City") for approval of a service contract to provide sewer service outside its boundaries in compliance with Government Code Section 56133. Sewer service is proposed to be extended to the properties currently assigned with APNs 1003-521-01 and 1003-521-02. The project area is located on the southeast corner of Mountain Avenue and Glendale Road, within the City's northern sphere of influence which encompasses the community known as "San Antonio Heights". Notice of this hearing has been advertised as required by law through publication in The Sun and the Daily Bulletin, newspapers of general circulation in the area. Individual notice was provided to affected and interested agencies, County departments and those individuals 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 shows the service contract area on the displayed map. He reports that although the two parcels to be served are contiguous to City boundaries along Mountain Avenue, annexation is not an option because of past and ongoing opposition to annexation from the community of San Antonio Heights. He explains that the County and the City entered into a Memorandum of Understanding in 1989 regarding the City providing sewer service to that community.

Mr. Martinez reports that the two parcels are vacant and he says the County Land Use Services Department processed the approval of Tentative Parcel Map (TPM) 16291 to divide the two parcels into four lots, with one of the conditions of approval requiring connection to the City's sewer system. He says service will be provided to the four lots through the extension of an eight-inch sewer main by approximately 850 feet, at a total cost of $17,484 to the owner/developer. He notes that future users of the sewer service will be charged 1.5 times the in-city rate. He says authorization of this agreement by the Commission is required before the City can take final action to implement the terms of the agreement.

Mr. Martinez says LAFCO's Environmental Consultant, Tom Dodson and Associates, has reviewed the County's Initial Study and Mitigated Negative Declaration for the TPM. He says the actions required of the Commission related to the environmental review are outlined in the staff report. He says the staff

supports the City's request for authorization to provide sewer service to these parcels. He says the staff recommendation is on pages one and two of the staff report and includes that the Commission: (1) take the actions listed for environmental review as a responsible agency; (2) approve LAFCO SC#206; and (3) adopt LAFCO Resolution No. 2826 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City's boundaries.

Chairman Bagley 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.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Bagley calls for a voice on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY COUNTY OF SAN BERNARDINO FOR TENTATIVE TRACT 16734 TO CREATE FIVE LOTS ON 2.18 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#232; AND (2) LAFCO SC#232 - IRREVOCABLE AGREEMENT TO ANNEX NO. 04-00007 FOR SEWER SERVICE, CITY OF FONTANA - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO SC#232-Irrevocable Agreement to Annex No. 04-00007 for Sewer Service, a request submitted by the City of Fontana (hereinafter referred to as "the City") for approval of a service agreement to provide sewer service outside its boundaries in compliance with Government Code Section 56133. Sewer service is proposed to be extended to APN 0241-201-05, which is being divided into five lots through Tentative Tract 16734, and is generally located at the northwest corner of Miller and Alder Avenues, in the northeastern portion of the City'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 general circulation in the area. Individual notice was provided to affected and interested agencies, County departments and those individuals 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 shows the service agreement area on the displayed map. He points out that the parcel is contiguous to the City of Fontana's boundaries on three sides and he says annexation would have been a better option. He reports, however, that the property owner opted to develop his tentative tract map through the County rather than the City. He says the County Land Use Services Department has processed approval of Tentative Tract 16734 and that one of the Conditions of Approval placed on this project requires connection to the City's sewer system. He reports that the City has conditioned the Irrevocable Agreement to Annex to include the requirement that the property owner file an application for annexation to the City prior to receiving sewer service. Mr. Martinez says this is something new and he says the Commission might want to consider giving the applicant some credit toward his annexation fees if he files the annexation proposal right away.

Commissioner Pearson asks whether the annexation will take in the road widths on Alder and Miller Avenues. Mr. Martinez responds that it will and says the annexation will "square off" the City boundary in that area. Commissioner Colven comments that there is generally a condition that the property owner sign an irrevocable agreement to annex for these service agreements. Mr. Martinez responds that at first there was a verbal agreement between the City and the property owner to annex, since the property owner did not want to process his tract map through the City. He says the County, at the request of the City, included in the conditions of approval the requirement that an annexation application be filed prior to the receipt of the sewer permit.

Mr. Martinez says the staff supports the City's request for authorization to provide sewer service to this parcel. He says the staff recommendation is on pages one and two of the staff report and includes that the Commission: (1) take the actions listed for environmental review as a responsible agency; (2) approve LAFCO SC#232; and (3) adopt LAFCO Resolution No. 2827 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City's boundaries.

Chairman Bagley 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.

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Bagley calls for a voice on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO SC#233; AND (2) LAFCO SC#233 - IRREVOCABLE AGREEMENT TO ANNEX NO. 04-00008 FOR SEWER SERVICE, CITY OF FONTANA - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO SC#233-Irrevocable Agreement to Annex No. 04-00008 for Sewer Service, a request submitted by the City of Fontana (hereinafter referred to as "the City") for approval of a service agreement to provide sewer service outside its boundaries in compliance with Government Code Section 56133. Sewer service is proposed to be extended to APN 0255-081-26, which is approximately 2.95 acres and is generally located on the west side of Cypress Avenue, two parcels north of Jurupa Avenue, in the southern portion of the City'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 general circulation in the area. Individual notice was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

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) determine that SC#233 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO SC#233 authorizing the City of Fontana to extend sewer service outside its boundaries to a single-family residential unit being constructed on APN 0255-081-26; and (3) adopt LAFCO Resolution No. 2828 setting forth the Commission's findings, determinations and approval of the agreement.

There is no one in the audience to speak on this item.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Smith. Chairman Bagley calls for a voice on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY COUNTY OF SAN BERNARDINO FOR GENERAL PLAN LAND USE DISTRICT AMENDMENT FROM RS-20M TO RS AND TENTATIVE PARCEL MAP 16511 TO CREATE FOUR PARCELS ON 1.05 ACRES, AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC#234; AND (2) LAFCO SC#234 - IRREVOCABLE AGREEMENT TO ANNEX NO. 04-35-I-55 FOR SEWER SERVICE, CITY OF MONTCLAIR - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO SC#234-Irrevocable Agreement to Annex No. 04-35-I-55 for Sewer Service, a request submitted by the City of Montclair (hereinafter referred to as "the City") for approval of a service agreement to provide sewer service outside its boundaries in compliance with Government Code Section 56133. Sewer service is proposed to be extended to APN 1011-451-02, proposed for development into four individual residential lots through the approval of Tentative Parcel Map 16511, generally located at the northwest corner of Howard Street and Vernon Avenue in the southeastern portion of the City's sphere of influence. Notice of this hearing has been advertised as required by law through publication in The Sun and the Daily Bulletin, newspapers of general circulation in the area. Individual notice was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

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 environmental actions listed for environmental review as a responsible agency; (2) approve LAFCO SC#234 authorizing the City of Montclair to extend sewer service outside its boundaries to APN 1011-451-02; and (3) adopt LAFCO Resolution No. 2829 setting forth the Commission's findings, determinations and approval of the agreement.

There is no one in the audience to speak on this item.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Smith. Chairman Bagley calls for a voice on the motion and it is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

REVIEW AND ADOPTION OF HUMAN RESOURCES POLICIES AND PROCEDURES - APPROVE STAFF RECOMMENDATION AND PERFORMANCE MANAGEMENT SYSTEM RECOMMENDATIONS AND DIRECT STAFF TO PREPARE APPROPRIATE RESOLUTION FOR ADOPTION ON AUGUST 18, 2004

LAFCO conducts a public hearing to review and adopt the Human Resources Policies and Procedures prepared by the Commission's Human Resources Consultant, Alcock and McFadden. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation.

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 Mary Alcock is present this morning to present the Human Resources Policies and Procedures. Ms. McDonald says the staff recommendation is that the Commission adopt these Policies and Procedures and instruct staff to prepare the appropriate resolution for adoption on the August 18, 2004 agenda.

Ms. Alcock says the Commission has been presented with the Policies and Guidelines discussed at the April hearing. She says Legal Counsel Clark Alsop has reviewed this document and provided some simple legal adjustments he felt were important. She presents to the Commissioners a copy of Mr. Alsop's comments and says these changes will be incorporated into the final document for the August 18 hearing. Mr. Alsop states that his comments are nothing of substance and are only technical "tweaks". Ms. Alcock asks Commissioner Sedano, who had expressed some concern at the April hearing regarding desk inspections, whether he is comfortable with that policy. He indicates that he is. She points out that there was some discussion regarding tuition reimbursement and she says that Policy 501 relates to tuition reimbursement. Ms. Alcock says this document takes into account all legislative changes for 2004. She says that for 2005, she will review any changes that may occur and will submit any necessary revisions or adjustments to the policies.

Ms. Alcock discusses that the Commission's "Terms of Employment" has been separated into three documents, the first of which is the Human Resources Policies and Guidelines. She says the second document relates to the benefit package, noting that the Commission contracts with the County for the use of County benefits such as medical, dental, life insurance, etc. She says the third document is for the internal operating procedural guidelines for the staff.

Ms. Alcock says that in April, the Commission also asked her to look at the issues of performance management and compensation. She presents the Commissioners with a document providing three recommendations related to a Performance Management System. She says the first recommendation is that a Performance Management System be adopted and that the Executive Officer and staff be reviewed, at a minimum, on an annual basis. She provides a sample Performance Evaluation that could be utilized. She discusses the four parts of that Evaluation, which are: (1) General Performance Review; (2) Goals and Objectives; (3) Overall Rating; and (4) Signatures. Ms. Alcock says the second recommendation is that the Commission adopt a policy for the annual review of compensation. She says the third recommendation is that the Commission consider establishing an Executive Personnel

Committee, made up of the Chairman, Vice Chairman and most recent past Chairman, to oversee any needs in the Human Resources areas. She says that Committee would then bring any issues to the full Commission. In response to comment of Commissioner Sedano, Ms. Alcock states that an employee signing the Performance Evaluation is just acknowledging receipt of a copy of the Evaluation and is not agreeing to it.

Chairman Bagley calls for any questions or discussion. There is no one in the audience to speak on this item.

Mr. Alsop says the Commission is being asked whether it wants to adopt the three recommendations presented by Ms. Alcock for the Performance Management System.

Commissioner Smith moves approval of staff recommendation, including adoption of the Human Resources Policies and Procedures and the Performance Management System recommendations and instruction to staff to prepare the appropriate resolution for adoption on the August 18, 2004 agenda. The motion is seconded by Commissioner Colven.

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

PENDING LEGISLATION

Ms. McDonald reports that the island annexation legislation increasing the acreage to 150 acres and removing the restriction that the island cannot be part of a larger island has been approved and will take effect January 2005. She says staff will put together information as to a definition of what is “substantially surrounded” and then will meet with the City Managers and staff of the cities that will be affected by this legislation. She discusses that CALAFCO is still registering opposition to AB 2306, which would restrict the ability of the Commission to condition a proposal on the initiation of another proposal.

EXECUTIVE OFFICER’S ORAL REPORT

Ms. McDonald states that the Commission has been presented this morning with a copy of a letter from the Fair Political Practices Commission advising that the dissolution of County Service Area 60 is not an “entitlement for use”; and, therefore, a listing of all parcels within the dissolution area will not be required.

Ms. McDonald reports that on the August 18 agenda, the Commission will consider an annexation to the City of San Bernardino and service reviews for the Cities of Highland and Yucaipa, and the East Valley, Yucaipa Valley and Beaumont-Cherry Valley Water Districts. She reports that on the September 15 agenda, the Commission will consider the Hesperia Freeway Corridor reorganization that was continued this morning, the annexation of five islands to the City of Colton, and service reviews for the Cities of San Bernardino and Redlands, the San Bernardino Valley Water Conservation District, and County Service Areas 110 and SL-1.

COMMISSIONER COMMENTS

Commissioner Smith says he apologizes if his motion to continue the Freeway Corridor reorganization has put a burden on staff. He says the City of Hesperia has probably just gotten a taste today of the protest it will be receiving. He says the Corridor has been sitting there a long time and needs to be developed. He says he does not think Oak Hills will ever become a city.

Ms. McDonald says the incorporation of Oak Hills was reviewed in 1994. She says in September she will provide a chronology of events addressing that and why Hesperia’s sphere was expanded to include all of CSA 70 Zone J, as well as the insistence of the community that the City only annex the Corridor. She

adds that once Oak Hills has been annexed to the City of Hesperia, the only way it could come out of the City is with the agreement of the City.

Commissioner Pearson says the Commission was presented this morning with an anonymous hate letter, addressed to "interested persons", regarding the selection of the Special District member on the Commission. He says he does not feel that letter should have been passed out. Ms. McDonald responds that the letter was addressed to the Commission on the envelope and she says staff wanted the Commission to understand where the Special District member selection process has gone. She reports that a mailed ballot election is being conducted. She says she is not comfortable with screening information provided to the Commission. Commissioner Bagley comments that they need to be aware of what is happening, but he and other Commissioners comment that they do not give these types of letters credibility.

Commissioner Colven comments that several speakers this morning mentioned letters they received from LAFCO and he asks what letters they were referring to. Ms. McDonald says they were referring to the individual notice provided to landowners and voters. She says that the notice gives the date of the hearing, title of the proposal, LAFCO number, area of consideration and proposed land uses, as well as LAFCO's phone number and the names and phone number of persons who can be contacted at the City of Hesperia. She says she will provide the Commissioners with a copy of that notice for the September hearing. She says that the speakers stated they were not advised of how to protest and she points out that the hearing today was not a protest hearing.

Commissioner Bagley comments that the Commissioners may have noticed that he asked staff to call for a Deputy to be present during the hearing related to the Hesperia reorganizations. He says there are some individuals in this County that have a history of disrupting meetings. If necessary, he says he will adjourn a meeting to restore order and will have someone incarcerated, if necessary.

COMMENTS FROM THE PUBLIC

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

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 12:50 P.M.

ATTEST:

_____
DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

_____
JIM BAGLEY, Chairman