

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MARCH 21, 2007**

REGULAR MEETING

9:00 A.M.

MARCH 21, 2007

PRESENT:

COMMISSIONERS:	Paul Biane, Chairman	Brad Mitzelfelt, 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, Alternate
	Larry McCallon	

STAFF:

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

8:30 A.M. – CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street, First Floor, San Bernardino.

Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(a)): San Bernardino Valley Water Conservation District v. Local Agency Formation Commission, Superior Court Case No. SCVSS 147526.

8:50 A.M. – RECONVENE TO REGULAR MEETING OF THE LOCAL AGENCY FORMATION COMMISSION – San Bernardino City Council Chambers.

CALL TO ORDER - FLAG SALUTE

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

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

Chairman Biane announces that Commissioner Mitzelfelt will be sworn in upon his arrival.

APPROVAL OF MINUTES FOR COMMUNITY MEETING OF FEBRUARY 5, 2007, AND REGULAR MEETING OF FEBRUARY 21, 2007

Chairman Biane calls for any corrections, additions, or deletions to the minutes for both meetings. There are none. Commissioner McCallon moves approval of both sets of minutes as presented, seconded by Commissioner Pearson. Chairman Biane calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Williams voting in his stead).

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CONSENT ITEMS

LAFCO considers the items listed under its consent calendar, which Chairman Biane states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the month of February 2007 and noting cash receipts. Notice of these consent items has been advertised as required by law through publication in The Sun, a newspaper of general circulation. A Travel Claim and 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. Staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled for the month of February and note the cash receipts.

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

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

Chairman Biane announces that in order to accommodate some requests received, he is going to move up Item No. 7 to be considered prior to Item No. 6.

CONTINUED ITEM

CONTINUED FROM JANUARY 17, 2007 – CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF SAN BERNARDINO FOR THE SAN BERNARDINO GENERAL PLAN UPDATE AND ASSOCIATED SPECIFIC PLANS (SCH NO. 2004111132), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3050; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3050—REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) – APPROVE STAFF RECOMMENDATION TO TAKE OFF CALENDAR

LAFCO conducts a public hearing continued from January 17, 2007, to consider a reorganization submitted by the City of San Bernardino (hereinafter referred to as "the City"), including annexation of two areas to address territory included within the Arrowhead Springs Specific Plan not currently a part of the City. Notice of the original hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area, and individual mailed notice was provided to landowners and registered voters within and surrounding the reorganization area pursuant to State law and Commission policy. Individual mailed notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

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 City of San Bernardino (hereinafter the "City"), requested a continuance to respond to the Commission's concerns regarding the delivery of water, sewer and fire protection services to the Specific Plan area. She reports that, rather than continuing the item, staff is recommending that the proposal be taken off calendar and that staff be directed to return it to the Commission's agenda as soon as possible following submission of the required revisions to the City's Plan for Service. She notes that this will require readvertising of the proposal and says it can then be tied to the City's six islands being considered for annexation.

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Chairman Biane notes that no one has requested to speak on this item. He moves approval of staff recommendation, seconded by Commissioner Cox. He calls for any objections to the motion. There being none, the vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: None. Absent: Nuaimi (Williams voting in his stead).

Vice Chairman Colven states that the Commission met in Closed Session and conferred on existing litigation filed against the Commission by the San Bernardino Valley Water Conservation District. He announces that no reportable action was taken.

DISCUSSION ITEMS

CONSIDERATION OF BLOOMINGTON INCORPORATION COMMISSION'S REQUEST FOR EXTENSION OF SUBMISSION DEADLINE FOR REQUIRED DEPOSITS RELATED TO LAFCO 3075 FOR INCORPORATION OF THE CITY OF BLOOMINGTON – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a request submitted by the Bloomington Incorporation Commission (hereinafter referred to as "BIC") for an extension of the submission deadline for the required deposits related to LAFCO 3075-Incorporation of the City of Bloomington, etc. Notice of this consideration has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual notice of this hearing 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 BIC was given a deadline of February 28, 2007, to submit a completed incorporation application, including \$109,990 in filing fees and deposits. She reports that on February 28, BIC submitted a check for \$30,000 and the Supplemental Form for an incorporation, leaving a balance of \$79,990 required to be deposited. She notes that BIC also requested a 90-day extension for time to submit the additional fees and a complete application. She says the staff report includes copies of the Commission's prior determination and the November staff report that identifies the fees, deposits and materials required.

Ms. McDonald states that staff recommendation is that the Commission deny the request for an extension of time since BIC has had sufficient time to accumulate the revenues necessary. However, she says if the Commission approves an extension, staff requests that a final deadline for the submission be indicated, with no further considerations of extensions. She states that the Commission has been presented today with a letter received March 19 from the City of Fontana expressing opposition to BIC's request and requesting that the Commission move forward with the consideration of annexation of the City's three remaining islands. She says a letter has been presented to the Commission today from BIC outlining its position for requesting this extension and providing a copy of minutes from the Commission's January 19, 2005 hearing. She notes that staff has not had an opportunity to look at this submission but says the recommendation remains to deny the request.

Eric Davenport, Chairman of BIC, discusses their letter and states that on page five of the January 2005 minutes, the Commission reduced the fee required to initiate the review for removal of the area from the spheres of influence of the Cities of Fontana and Rialto from \$17,700 down to \$9,700. He points out that at that hearing, not one year ago, Commissioner Gonzales requested a timeline for those fees to be paid; and he says the Commission gave BIC one year to pay those fees. He points out that at no time was there any mention of the \$110,000 that would be due in February 2007. Mr. Davenport explains that one reason for not initiating the fundraising campaign was that BIC's effort was not afforded the normal incorporation protections of not having large sections of the incorporation area annexed and BIC decided it would be better to raise the funds on an as-needed basis so that they would not have to return large amounts of money because areas were annexed. Mr. Davenport says that when it was decided in October that BIC would have to pay \$109,000, they were unable to start the fundraising efforts due to the

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holidays; they had to wait until January 5 to actually start the funding raising, during which six week period they were able to raise \$30,000. He says they are requesting this extension of 90 days to continue the fundraising efforts; that people in Bloomington are waiting to see what happens at this meeting before they donate. He notes that an agreement has been worked out with someone who is willing to step forward and help with the fees and says he will submit a letter to Ms. McDonald in about a week with details of that agreement. He reports that they have done pretty well for being a grassroots effort but says it has been more work than they anticipated. He says \$30,000 has been deposited and there is no reason why the study cannot go forward while they continue to raise funds. He says they are asking that the Commission grant this extension based on the fact that BIC was never told they would have a year to collect the money; they were not afforded the protections a normal incorporation effort is; and they had a hard time doing fundraising during the holidays.

Loretta Hankins states she is representing herself and people from her neighborhood who were unable to take off from work to attend. She states that many of them support the 90-day extension and they are waiting to see what happens at this meeting. She says that to do fundraising during the holidays is hard; and she says that when she and her husband looked for their house, they did not want to live in the City of Fontana or the City of Rialto.

Ron Stumpf says he has lived in Bloomington for 30 years; that he is very proud of his community; and that they need these extra 90 days for fundraising. He says they are not able to get the information out through television or the press; that \$10 donations are received. He says that the town supports this effort but they need more time to collect the money and that being given 90 more days will hurt no one. He asks the Commission to vote in favor of the extension.

Eric Scott of the Bloomington Municipal Advisory Council states that it is difficult not to acknowledge that there was a deadline; that funds and paperwork were required; and that BIC missed that deadline. He says the members of BIC have been working themselves to the bone to get the materials together; and that an extension will probably have minimal impacts on anybody. He notes that some people want to come in and build housing tracts in the area, but he says he hears that no one is buying houses. He points out that Bloomington has tried several times in the past to achieve cityhood; he says this is the closest they have come to achieving that dream and says if this does not move forward, the chances of making this happen again in the future are very slim. He asks for understanding and compassion from the Commission in granting this extension.

There being no further speakers, Chairman Biane closes the hearing.

Commissioner Pearson comments that the Commission has been very impressed with the community's efforts over the past several years and he says he has supported their efforts on several different occasions where a vote one way or another might have made a difference. He discusses that during the November 15, 2006 hearing, as part of the official record, he asked Mr. Davenport and BIC members if they understood the requirements to meet the date for the required financial and other items and he says they fully and completely acknowledged in several different points in those minutes that they understood and felt they would have no difficulty providing what was required. He says they are fast approaching the point of no return where they must move forward and recognize the interests of the nearby communities who had proposals that took precedence but were set aside to give Bloomington another chance. He says he empathizes and recognizes their efforts but this cannot be dragged on forever, pointing out that the communities of Menifee and Lake Arrowhead Woods found out as they got further into the process that it was not feasible to move forward with incorporation. He says he thinks the Commission has done all it can possibly do at this point and that it is time to make a decision to approve staff recommendation.

Commissioner Sedano notes that on page 10 of the November 15 minutes Mr. Davenport said that money was no object. He says that when he spoke to Mr. Davenport and he said that money was no problem, he thought that was great. He says these people have a lot of heart and desire but he agrees with Commissioner Pearson that they should not continue to drag this on. He says they need to let the other Cities around there go forward with their projects; that the people need an answer, not a continuation.

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Commissioner Hansberger points out that the City of Yucaipa made six attempts at incorporation and says three made it to LAFCO before the City was successful. He says some things take multiple efforts to achieve and that BIC's lack of ability to launch this does not necessarily mean incorporation cannot be done. However, he says what troubles him is that they are holding up other entities from activities they are involved in. He says he would encourage them to pursue cityhood if they desire but he does not want to delay the efforts of other entities. He says the Commission has done that for a while but the point has come when others must move on. He says there is nothing to keep BIC from pursuing incorporation although some of the boundaries may be affected in the meantime if the extension is not granted.

Commissioner Williams says she thinks they should be given another 90 days. She says they are closer than they have ever been; that if the extension is denied, they can continue to pursue cityhood but their boundaries will change. She says 90 days will not make a big difference to a lot of people, except to the Bloomington people. She says that at the end of the 90 days, if they have not accomplished what was required of them and request another extension, she will be the first to say no—that they had their chance. She says that a lot of work will go down the drain if they are not given 90 more days; that they seem to feel they have a handle on getting the money so why not let them pursue that. She says maybe they will come in 60 days instead of 90 days and be ready to go.

Commissioner McCallon moves approval of staff recommendation, seconded by Commissioner Cox. Commissioner Cox asks for clarification, stating that she could not find what Mr. Davenport was referring to when he mentioned a schedule in relation to Commissioner Gonzales. Ms. McDonald says she believes he was referring to the prior sphere reductions from the Cities of Fontana and Rialto requested by BIC, which were considered first. She reports that the Commission overrode its policy and allowed BIC to move forward and pursue incorporation while the areas were still within the spheres of those two Cities. She says that at that point, Commissioner Gonzales identified that the incorporation proposal must be submitted within a certain period of time. She says if that is what Mr. Davenport is referring to, that was a timeline that was discussed, but it was very early in this process when the sphere reductions were first submitted.

(It is noted that Commissioner Mitzelfelt arrives at 9:20 a.m.)

Mr. Davenport points out that if they review the minutes, that timeline only pertained to the \$9,700 fee and he says it was not expressed or implied that it was extended to the \$109,000. He notes that at that time, there was mention of \$20,000 or \$30,000 possibly for the environmental review. He says he believes that all the fees except for the \$79,000 have been paid and says they will have the balance due within 90 days and possibly 60 days. He says he agrees with the Commission that if they do not have the money in 90 days, they should be terminated. He discusses that they have come a long way, have done a good job and have met their burden by supplying the Commission with all the information needed at this point. He asks that the Commission remember that BIC was not afforded the normal incorporation protections so it would have been very unwise for them to collect a lot of money and then have to return it or possibly be in legal trouble over it, which is why they decided to collect it at each juncture. He reiterates they only had six weeks due to the holidays and asks for the Commission's help and understanding of the circumstances. He says the only one who will be hurt by a denial is the community.

There being no further discussion, Chairman Biane calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, McCallon, Pearson. Noes: Williams. Abstain: Nuaimi (Commissioner Williams voting in his stead). Absent. None.

SWEAR IN ALTERNATE BOARD OF SUPERVISORS MEMBER OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Alternate Board of Supervisors Member Brad Mitzelfelt, filling the unexpired term of Supervisor Josie Gonzales, which ends May, 2009.

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Chairman Biane points out for clarification that Commissioner Nuaimi just sat down at the dais and that he did not participate in the discussion of Item No. 7, the Bloomington incorporation matter. Commissioner Nuaimi, who arrived earlier but was in the Conference Room during the hearing on Item 7, says that he abstained on that item, just as he has on the other Bloomington efforts, not because he actually has a conflict but because he did not want there to be any sense that he was affecting the efforts to secure cityhood.

CONTINUED ITEMS

Commissioner Cox announces that she will abstain from voting on Item No. 6 and that her alternate, Commissioner Curatalo, will vote in her place. She leaves the hearing at 9:25 a.m.

CONSIDERATION OF VICTORVILLE COMMUNITY MUNICIPAL SERVICE REVIEWS AND JURISDICTIONAL CHANGE CONSIDERATIONS – APPROVE STAFF RECOMMENDATIONS NOS. 1 THROUGH 4 AND ALTERNATIVE STAFF RECOMMENDATIONS 5 AND 6 AS MODIFIED

LAFCO conducts a public hearing continued from February 21, 2007, to consider the Victorville Community Municipal Service Reviews and jurisdictional change considerations, including the proposed consolidation of the Victor Valley Water District and Baldy Mesa Water District, to be known as the Victorville Water District and to be established as a subsidiary district of the City of Victorville. Notice of the February 21, 2007 hearing was advertised as required by law through publication of one-eighth page legal advertisements in The Sun and the Victor Valley Daily Press, newspapers of general circulation in the area. Individual notice of this hearing 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 for the March hearing and the staff report and supplemental staff report for the February hearing (collectively referred to at times as the "staff report"), copies of which are on file in the LAFCO office and are made a part of the record by reference herein. Ms. McDonald states that the Commission's consideration today includes Municipal Service Reviews (MSRs) for the City of Victorville (hereinafter the "City") and its three subsidiary districts (Victorville Recreation and Park District, Victorville Fire Protection District and Victorville Sanitary District), and for County Service Areas 42 and 64, Victor Valley Water District (hereinafter the "VVWD") and Baldy Mesa Water District (hereinafter the "BMWD"). She says the Commission will also be considering a request from the City for expansion of its sphere of influence to the north, the designation of a zero sphere of influence for the City's three subsidiary districts, consolidation of the spheres of the VVWD and BMWD, a proposal submitted by the City for consolidation of the VVWD and BMWD and establishment of the consolidated district as a subsidiary district of the City, and an alternative proposal submitted by the VVWD requesting the status quo and annexation of five separate areas that the District thought had been a part of its boundaries since the 1950's. Ms. McDonald introduces Joyce Crosthwaite, Executive Officer for Orange LAFCO, who prepared the service review factors.

Ms. Crosthwaite states that she is here today because she, Ms. McDonald, and other LAFCO Executive Officers are trying to see if there are some economies of scale by cooperating with each other. She says she helped staff write the service review reports for the Victorville community agencies. She comments that service reviews are designed to be a "broad brush" look at a community; that the staff reports are based on data submitted by the agencies and that, sometimes, those snapshots in time are not entirely complete; and that the staff reports are like a frame around a jigsaw puzzle. She discusses the service review for the BMWD. She says that based on the data it submitted, staff found, as was common to all three agencies, that water in the Victorville communities, as it is across all of Southern California, is a serious issue with questions on whether there will be supplies available concurrent with need. She says that in the BMWD there are issues with increased Federal regulations regarding water quality standards, particularly with arsenic, but she says that is true with all water agencies in that area as well as in other parts of the State. She says some concerns were expressed by staff regarding financial records received

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and that it appeared that the District was reducing assets. However, she says BMWWD submitted an extensive letter and she believes it filled in some pieces of the jigsaw frame that staff did not have based on the data the District submitted. Ms. Crosthwaite states that for the VVWD, there was the same over-arching issue of the serious concern about water supplies, but she says staff found no significant issues during its service review. For the City, she says there was the same over-arching issues and some concerns regarding the transparency of the budgets for the City's subsidiary districts. However, she says the City has adequately addressed those concerns.

Ms. Crosthwaite says the staff recommendation for the MSR is that the Commission receive and file the reports for the City, VVWD, BMWWD, Victorville Fire Protection District, Victorville Recreation and Park District and Victorville Sanitary District and make the findings related to service reviews required by Government Code Section 56430, as outlined in the staff report, and to continue the MSR for County Service Area (CSA) 42 (Oro Grande) and CSA 64 (Spring Valley Lake) to the June 20, 2007 hearing.

Ms. McDonald discusses the sphere of influence updates which were undertaken. She says that the City requested an expansion of its sphere to the north by approximately 37,000 acres. She discusses the boundaries of the City and its sphere and its subsidiary districts, the VVWD, BMWWD and CSAs 64 and 42, as shown on the maps displayed. She says that for LAFCO 3038 (City MSR/sphere update) staff is recommending that the City's existing sphere be affirmed, with minor sphere expansions along the southwestern boundary to be coterminous with the sphere of the City of Hesperia; and that the sphere expansion to the north be deferred for one year to allow for completion of the City's General Plan and that it be expanded to include either the Victorville Water District or the VVWD, if consolidation is denied, for water service. She says that staff is recommending a zero sphere of influence for the City's three subsidiary districts (LAFCOs 3039, 3040 and 3041). She says staff recommends approval of LAFCO 3057 consolidating the spheres of the VVWD and BMWWD, and recommends that the consolidated sphere be amended to exclude the territory currently a part of the Town of Apple Valley (easterly of the Mojave River), and to add the unsphered territory currently between the existing BMWWD sphere and the Hesperia Water District sphere.

Ms. McDonald discusses LAFCO 2991, the consolidation proposal, and LAFCO 3019, VVWD's proposal requesting maintenance of the District as it is, with the annexation of five areas within its sphere. She says that a chart providing information about the existing agencies in the Victorville community is provided on page seven of the February 9 staff report. She says the Commission must evaluate whether there should be a single water service provider for the community. She says that the staff position is that there should be and, therefore, supports the consolidation, with the District to be named the Victorville Water District, and with the recommendation to annex the five areas in the VVWD that need to be annexed. She reports that the City is proposing that the consolidated district be a subsidiary district of the City. She discusses staff's concern with a subsidiary district, stating that the City's operation of its existing subsidiary districts does not provide transparency of government, isolation of budgets, etc. and that staff has recommended that the agencies be consolidated with a transitional board made up of three members of the existing VVWD Board, two members of the existing BMWWD Board and two City Councilmembers as ex-officio, non-voting members. She explains that for those reasons outlined in the staff report, staff felt that this transitional Board was the best way to address moving forward with consolidation. She says staff is recommending that LAFCO 2991 be: (1) modified to exclude the establishment of the consolidated district as a subsidiary district and that further consideration of this item, to be identified as LAFCO 2991A, be continued for one year; (2) modified to include the annexation of the five areas within the VVWD's sphere identified in the staff report; (3) expanded to include the formation of two improvement districts to represent the existing boundaries of VVWD and BMWWD in order to isolate the differing rate structures and property tax revenues; and (4) that the modified LAFCO 2991 be approved subject to the terms and conditions outlined in Attachment No. 2 to the February 9, 2007 staff report. She says the staff recommendation for LAFCO 3019 is that the alternative proposal be denied. It is noted that the staff recommendations include that adoption of the appropriate resolutions for staff recommendations Nos. 1 through 4 be scheduled for April 18, 2007.

Ms. McDonald says the City and the BMWWD conditionally support staff recommendation but have requested that the Commission take action and approve the consolidated District as a subsidiary district

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now. She reports that over the last two months the City and the BMWWD have submitted additional information for the Commission's consideration. She says the City submitted a letter dated February 8, 2007, identifying salary savings to the subsidiary district but she says that, as outlined in the staff report, staff questioned whether that is a true savings since the 45 positions will be transferred to the City and become an ongoing City expense. She discusses that there are savings to be achieved through the elimination of two attorneys, the operation of two independent boards, the requirement for the advertising of hearings and other things. She says staff questioned the transition of some facilities, such as BMWWD's administrative office, and says that there needs to be a mechanism in place to address returning revenues to the District if the facility is to be used for some other City activity. She says staff has questions regarding the transparency of government that will be provided if the District is a subsidiary district of the City, based upon its existing subsidiary districts.

Ms. McDonald says that there extensive terms and conditions that are proposed. She summarizes them, as outlined in Attachment 1 to the March 13 staff report. In conclusion, she says staff believes the two Districts should be consolidated, but she says that while staff agrees that the City ultimately should be the governing body, there are questions regarding the transparency of government, systems in place to assure the use of revenues, reserves, funds and facilities for these two Districts and retention of the assets for the two independent water districts.

Commissioner Hansberger asks what the reason is for staff recommendation to defer the City's request to expand its sphere. Ms. McDonald responds that the City is updating its General Plan and says staff would like to see what the City's changes to its General Plan will be, noting that the City has initiated the dissolution of its three subsidiary districts. She points out that the City's application indicates that it wants to expand its sphere by 37,000 acres, but she says there is no designation for a water provider and staff wants to expand the consideration of the sphere to address retail water service. Commissioner Hansberger asks what the purpose of consolidation is, in her mind. Ms. McDonald responds that staff believes that the most appropriate, effective, efficient means to address the delivery of retail water service is through a single water entity. Commissioner Hansberger comments that when the City was forming, the pitch to the public was that the City will never have a tax rate. He says the City had subsidiary districts that had all the taxes. He says this goes to the issue of transparency and he discusses that he is not sure the public fully understands the costs of operating a municipality when there are subsidiary districts where all the money is. He says if there is a municipality, there should be a clearly-articulated income stream and statement of the costs of existence and services. Ms. McDonald responds that is part of the question staff is asking about transparency of government. She notes that the City's subsidiary districts have slowly evolved and are considered to be City departments rather than special districts as they are required to be, but she says that is true of a number of other cities in this County.

Commissioner Sedano says that his experience is that a special district running a water district is far better than using a subsidiary district. He says there are professionals working for a water district as a full-time responsibility, while city councilmembers have multiple responsibilities. He says he highly recommends that a subsidiary district not be approved at this time because he does not have a lot of confidence in a subsidiary district.

Commissioner Nuaimi asks whether a one-year time frame with an interim structure is efficient to do a consolidation or whether there should be key milestones that must be accomplished before there is a transition to a subsidiary district, as opposed to having a specific time. He says Ms. McDonald mentioned about there being multiple administrative offices and that the Commission must insure that, depending on which office is disposed of, the proceeds will benefit that District's area. He says that he would argue that any savings should benefit the full consolidated area unless, for example, bonded indebtedness must be taken down, or he says there will be a battle,. He notes he will be curious to hear about the shifting of the 45 positions and how that will account for savings. Ms. McDonald responds that the issue regarding the two facilities is due to the bonded indebtedness that was used to build them. She says staff recommended the one-year time frame, but she points out that if the transition for employees, the addressing of bonded indebtedness and other issues can be submitted for review by staff, the matter could be returned to the Commission sooner. But she says staff wanted a definitive date in case none of that happened so that no one would be left hanging.

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In response to Commissioner Mitzelfelt's request for clarification, Ms. McDonald explains that the five pockets shown on the map are areas to be annexed to the VVWD, not the City. She explains that although those areas have been served by the VVWD for years, they have never physically been a part of its boundary. Regarding the transitional agency's governing structure, Commissioner Mitzelfelt asks whether after one year the matter would come back to the Commission which would determine whether the goals were met and whether the questions asked had been answered and, if they had, then the recommendation would be to turn the structure over to the City Council. Ms. McDonald says that is correct; but she says if the questions have not been answered, the Commission retains the authority to move forward with the consolidated district as in independent district. Commissioner Mitzelfelt says that if the VVWD has three votes, BMWD has two votes, and two ex-officio City Councilmembers with no votes, they will have an agency that is opposed to the consolidation with a majority vote and one year to get all of the cooperative things done. He says if the two ex-officio City Councilmembers were voting members, they would probably have a more cooperative board to try to get things done. Ms. McDonald responds that in staff's opinion, this is an independent district and there cannot be a special district representative and a city councilmember sitting on the board unless it is a subsidiary district. She notes that BMWD raised the question about the structure staff has proposed. She explains that the structure was based on population; that VVWD has a larger population than BMWD, so the three/two structure was proposed since a five-member board is required. She says if the Commission chooses, there could be two members each from VVWD and BMWD, with the other members' names thrown into a hat and the fifth member chosen. Commissioner Mitzelfelt asks whether an option would be to turn over governance to the City Council and go for the one year. Ms. McDonald responds that would be a subsidiary district. Commissioner Sedano reiterates that he thinks the district should be a special district, not a subsidiary district, and says he likes the idea of two members from VVWD, two members from BMWD, and putting the other names into a hat. He says that way, the Commission will not be responsible for saying who gets the third vote. Ms. McDonald explains that the options are to either make the consolidated district a subsidiary district at this hearing, placing the City Council as the ex-officio governing body, or to consolidate the Districts as an independent district and choose the first board from the existing membership of the two boards. She says the mechanism of choosing the boards is at the discretion of the Commission. Commissioner Mitzelfelt says he assumes that if this is to be a subsidiary district, the City Council could be subject to the same burden of proof during that one year and be required to come back with all the same answers that an independent district would have to come back with. Ms. McDonald says that staff has presented alternative recommendations, if the Commission feels the arguments are compelling to approve the subsidiary district today, which require the City and Districts to come back with milestones that have been achieved. She says alternative staff recommendations No. 5 and No. 6 on page four of the March 13 staff report recommend that the Commission modify LAFCO 2991 to include the annexation of the five areas to the consolidated district, expand it to include the formation of two improvement districts, indicate an intent to approve the modified LAFCO 2991, with direction to staff to modify the terms and conditions to reflect the establishment of a subsidiary district and require the submission of those items outlined in 5(c)(ii) and 5(c)(iii) and direct staff to schedule final consideration of this proposal once those materials are received.

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

Doug Robertson, the City's Deputy City Manager, discusses slides that have been presented as a visual aid, a copy of which presentation is on file in the LAFCO office and is made part of the record by reference herein. Mr. Robertson thanks staff for its diligence, patience and professionalism throughout this process. He says that the following quote from the February 9, 2007 staff report is the crux of why the City is proposing consolidation: "Consolidation with the BMWD would achieve some of the advantages but ultimately water service provision should be provided by the City of Victorville which has land use authority..." He says Ms. McDonald mentioned that the City is in the middle of updating its General Plan but he corrects her to report that the City is rezoning its northern sphere area and will submit that at a later date in support of the sphere amendment request. He says they want to include in that General Plan update a water provision and believe that all City services should be looked at in total. Mr. Robertson says the City's plans have been refined since this staff report came out to address the alternative recommendations on pages four and five. He shows a slide which shows the current makeup

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of the agencies governed by the City Council, as an ex-officio in some cases. He reports that some adjustments to the employee transition plan, which will be discussed later, have been made in response to staff concerns and discusses a slide which shows the adjustments that provide for a self-sufficient agency with all the necessary functions. He discusses the savings to be had, noting that the 45 positions mentioned in the City's original letter have been reduced, but he says that reduction in the number of positions to come over to the City still provides about \$2.5 million in savings annually, based on the preliminary employee transition plan. He says the total annual savings is still about \$3 million or possibly more. Mr. Robertson says that the City is encouraged by staff's alternative recommendations and is prepared to meet those conditions for the immediate formation of the District as a subsidiary district. He discusses Resolution No. 07-037 which was adopted last night by the City Council; he says the Victorville Water District will be run as an independent, stand alone district and will be governed in accordance with the Water Code. He says they believe this new Resolution and changes that have been made to the employee transition plan alleviate staff concerns and will allow this to move forward with the alternative staff recommendations Nos. 5 and 6.

Commissioner Sedano asks how they determined a \$100,000 savings in the Board of Directors. Mr. Robertson responds that the two Boards for the two Water Districts would be eliminated, along with meeting charges paid for their attendance at meetings, other staff-associated charges and the general overhead of having an additional ten employees. Commissioner Sedano says that is a pretty healthy salary for ten directors and he has a problem with that.

Commissioner Curatalo points out that for the February hearing the City was representing there would be a \$4 million savings and is now saying there will be a \$3 million savings, so there is already a \$1 million discrepancy. He says that he believes that local government is generally the most accountable form of government to the public and that transparency is very important. He points out that staff has expressed concerns that the City's existing subsidiary districts have not been adequately managed according to State law, as separate districts, yet now they are considering another subsidiary district for the City. Ms. McDonald responds that those questions were put forward to the City. She says in the resolution adopted last night and in other information being presented to the Commission the City has indicated what it intends to do to operate this District as a subsidiary district. She notes that in five years, for the next municipal service review, the Commission can check to see whether or not the City has done what it said it would; and, if it has not, the Commission can initiate discussion of the disestablishment of the subsidiary district. Commissioner Curatalo says he thinks consolidation is proper, but the issue is how it will be governed. He says he is satisfied with what Ms. McDonald is saying but adds that he wants the Commission to consider fashioning assurances and conditions so that in five years, when there will probably be different faces on the Commission, its staff, and City staff, there have been checkpoints along the way and things can be reexamined. Ms. McDonald responds that by making the terms and conditions and the required plans from the City part of the consideration, they become part of the official record and the LAFCO staff will be obligated to do the service review in five years and will have these documents by which to evaluate the District.

Sean McGlade, City Engineer, says the problems with water in the Victor Valley are the overdraft and the water quality issue experienced by some districts. He discusses that the City is working with the Mojave Water Agency (hereinafter referred to as the "MWA") on a super well field and water supply pipeline project on the Mojave River. He explains that water will be taken from the Aqueduct and percolated into the Mojave River at a recharge site; that the project will take water from the River and the well field in an extraction zone and pump it westerly across the various Cities to points of connection and to Districts for storage. He says the benefit of this plan is the direct connection of the clean water to the district which allows for blending of the water to improve the quality and he says it will reduce the amount of pumping needed for the aquifer to provide water necessary for the future growth of all the communities. Mr. McGlade says the benefit of the consolidated district as a subsidiary district is the economy of scale—reduction of the actions needed by multiple boards, various environmental documents and permitting for a project and it will streamline the ability for a project like the well field project to be successful. He requests that the Commission give consideration for the consolidation of the two Districts as a subsidiary district.

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Diana Ramirez, the City's Director of Human Resources, discusses slides regarding the employee transition plan and the positions to be absorbed by the City. She says the cost savings deals with the fact that the City currently has budgeted nearly \$6 million in vacant positions and has been doing alternative methods to perform the functions of these positions which have not been filled on a permanent basis while the City awaited the outcome of this consolidation. She discusses that the City currently has 76 vacant positions, with a 2.2 vacancy ratio and intends to absorb 34 positions. She points out that the actual budget for the vacant positions is \$5.9 million and that the cost for the positions to be absorbed is approximately \$2.5 million. She discusses the employee benefits, as outlined on the slide, and says they are pretty comparable to what the employees now have. She discusses the transition plan, as outlined on the slide presentation. She explains there will be an initial meeting with the Human Resources staffs of all three agencies to discuss employee classifications, qualifications, benefits, and to establish a timeline. She says employees will receive an information letter regarding the process and that there will be information meetings to explain benefits, the enrollment process, employment applications and vacant employment opportunities. She says that anyone who wants to transfer into one of the vacant positions will be welcome and she says the City believes its benefits are better than what the employees now are receiving. She discusses that the City went through a similar transition and she says it was quite successful. She says there are various classifications that are vacant in the City and more than enough positions into which to transition the 34 classifications.

Councilman Mike Rothschild urges that the Commission not approve an interim board. He says he served on the VVWD Board for nine years and that Councilman Rudy Cabriales also served several years on that Board. He says he served simultaneously on the VVWD Board and the City Council for a number of months; that he is sensitive to the VVWD and understands the District and its management. He says the transparency issue is very clear to the City. He says that whether there were some sort of flaws in the way the City might have managed its subsidiary districts in the past, it probably was more to the benefit of the general consumers. He discusses that historically the City has back-filled the revenues of its districts so he says he believes the consumers have generally benefited financially from the City's management. He discusses that consolidation of the Districts as a subsidiary district will not only make things more efficient by economy of size but in real dollars as he says was shown on the previous slides. He says that both Districts combined will have employees that will have the opportunity to move around in the City's career pattern and the City will benefit by picking up experienced workers to put into those vacant positions that have been held in abeyance. He says if they have to wait a year or even five years, that opportunity will be lost. He urges that the Commission approve the consolidation with the City Council as the managing Board of Directors. He reiterates that two of the five Councilmembers sat on the VVWD Board and understand the difference between the two Districts; that the City clearly understands the transparency and bookkeeping issues, which will be adhered to strictly, as reaffirmed in the City's resolution recently passed.

Mayor Terry Caldwell discusses the history of the City and its subsidiary districts. He discusses that the City Council has indicated publicly that if consolidation is to occur, the City will guarantee that the employees of the two Districts will become part of the City family without suffering any loss of income or benefits. He says all these things have to be fine tuned but he is confident that the staffs working together can achieve the level of confidence and transparency that everyone thinks is necessary and important. Mayor Caldwell discusses that the City is very aggressive in terms of creating jobs and economic opportunities through the former George Air Force Base (hereinafter referred to as "GAFB") and he says the City has been making huge investments of money and huge decisions that will be far reaching in terms of the Victor Valley becoming, if not the primary economic engine of San Bernardino County, one of the most important, and the most important economic engine for the Victor Valley. He reports that they have had multiple problems in terms of coordination and timing in terms of the City's ability to make commitments to companies and to provide incentives to lure world-class companies to come to Victorville. He says they have had problems because water districts are not in the land use, job creation or economic enhancement business. He says water is used as the tool for economic incentives to get people to come to the Victorville community and the City cannot continue to move aggressively as it has or to make deals on a timely basis with the current arrangement. He says the benefits have been outlined. He asks the Commission to consider that the employees of both Water Districts have been kept in limbo for over two years and he says to keep them in limbo another year, or perhaps indefinitely, is an

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injustice. He says the City has no interest in a "shotgun" marriage, but wants to achieve the best form of good governance for the communities. He discusses that the only area of disagreement with LAFCO staff is that the City believes that the "hybrid" board creates more opportunities for mischief and chaos since the reality is that the VVWD Board unanimously opposes the subsidiary district and to give them a three/two vote position means unanimity will never be achieved. He says to relegate the BMWD to a second class status is unfortunate, to say the least, and that to say two Councilmembers can go to the Board meetings and listen to what others have to say, but not participate in the process, serves no useful purpose. He says the City's application was submitted in partnership with the BMWD, which desperately wants to consolidate and become part of the City, and to create what staff is suggesting delays good government and costs savings and creates additional hurdles the City will have to jump through in its aggressive pursuit of business and economic development. Mayor Caldwell urges the Commission to adopt the staff recommendation, including the alternative recommendations to create the consolidated district as a subsidiary district, subject to all the terms and conditions that have been laid out. He asks what the likelihood is of coming back in six months or a year having solved the integration problems if the Board is dominated by an agency that is on record unanimously opposing the subsidiary district.

Jon Roberts, City Manager and General Manager of the independent districts that currently exist in the City, says that the discussions that have occurred are very important in terms of economies of scale and cost savings and he hopes the City has addressed the concerns that remained about the transition plan. He discusses that the reason why the City Council unanimously determined about two years ago that the consolidation of the Water Districts was vitally important, not only to the City but the entire Victor Valley and possibly the economy of Southern California, was because they came to the conclusion that the independent Water Districts were not taking the necessary actions to ensure that there will be an adequate supply of water to meet the growth going on in the Victor Valley. He discusses that in 1990, the City of Barstow filed a lawsuit, primarily against the City of Adelanto but encompassing all the upstream producers, because Barstow felt threatened by the growth going on in the Victor Valley and the increasing pumping of water and felt there would not be adequate water supplies to recharge their aquifer. He says that under the threat of that lawsuit, all the involved parties came together and, in 1993, an interim judgment was issued for an adjudicated water basin, with most every party agreeing to the stipulated judgment that set in place a physical solution to the overdraft that has been occurring and continues to occur today in the Victor Valley. He says the agreement allowed all producers and purveyors to pump unlimited amounts of water, with the agreement that all water they pumped over their baseline year would be replaced. He says, however, that has not happened; that for the past 14 years the basin continues to be overdrafted; and that part of the reason is that both VVWD and BMWD have done almost everything to prevent the implementation of the physical solution they agreed to. He discusses that they have opposed most of the rampdowns; he says that BMWD filed a lawsuit claiming it was no longer subject to the stipulation agreed to and that its aquifer was completely independent of the rampdown. He discusses that VVWD has demanded ownership of the water that MWA purchases from the Aqueduct to recharge the basin; that VVWD has demanded that the water be discharged by MWA in areas that will exclusively benefit its wells, despite the fact that it is the people's water being replaced; that VVWD has been planning for at least eight years, as a solution to the overdraft, the construction of a water treatment plant for the recharge of basins that it would own and exclusively control, yet there is no project that is going to be constructed anywhere near the time horizon; and that VVWD has threatened the City with lawsuits if the City attempts to serve reclaimed water to any customers that are currently using potable water. Mr. Roberts says it makes no sense that a desert region is not utilizing reclaimed water. He says these actions that have occurred over the past 13 years threaten the entire future of the economic development of the Victor Valley. He says the only way possible to demonstrate that there is adequate water for the next twenty years is through the implementation of the physical solution everyone agreed to 13 years ago but have fought implementing. He discusses that BMWD last year overdrafted by 3,000 acre feet; that VVWD overdrafted by 8,000 acre feet; and that the total amount of imported water purchased by MWA for the entire basin was 7,200 acre feet, meaning that the two agencies combined pumped more overdraft than the total amount of imported water purchased by MWA. Mr. Roberts says the City has supported the MWA and all its rampdowns and supports the well project mentioned by Mr. McGlade and he says the status quo is unacceptable. He says putting an interim board in place for a year, and probably forever, will continue the status quo and is a threat to the economic development of the City, the redevelopment of GAFB and all the things the City Council is pursuing to the benefit of the

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constituents. He implores the Commission to move forward with the consolidation under the City as soon as possible.

William Medlin, Deputy City Attorney with the law firm of Green, de Bortnowsky & Quintanilla, says staff has done an excellent job in fulfilling its statutory mandate to review this issue. He says the overwhelming evidence before the Commission supports alternative recommendation No. 5 that a subsidiary district should be formed now, with the safeguards called for by staff outlined in No. 5 to address the concerns expressed today. Mr. Medlin says they see inherent legal issues with a transitional Board which have been expressed and he says the decision that would be supported is adoption of the alternative No. 5.

Terrie Flint, a VVWD Board Member, states that Mr. Roberts is absolutely incorrect. She says that the VVWD has been involved with MWA for many years; has started a percolation project and will be percolating on 64 acres to recharge the groundwater. Ms. Flint says VVWD just spent \$3 million to buy water to replenish the aquifer; that they agree that MWA needs to do a better job at buying the water, but she says that is not VVWD's fault. She says that the VVWD is the largest purveyor, serving the most people, and she says they are watching out for the people they serve, which Mr. Roberts refers to as trying to take care of their well fields. She says the VVWD works well with other agencies; that it has been working with and has done joint projects with BMWD. She says the City has not demonstrated where the savings will come from. She notes that it has been indicated that \$100,000 will be saved in Board fees but she says that she certainly does not make as much money serving on the VVWD Board as the City represented, although the BMWD Board may. She says there needs to be a transition period and it needs to be longer than a year. She discusses they are concerned about employees and what jobs they will be in, and asks why the City has 40 some vacant positions. She points out, as has been mentioned, that the cost will shift from the Districts to the City, so there will be no savings. She reports that she worked for the City when it took over the Sanitary District. She says two women came in, with one of them working out to be a secretary, but the other one ended up being fired and she says she is afraid that will happen to VVWD's employees that cannot transition into a secretary or customer service representative-type job. Ms. Flint says the VVWD has two conservation specialists and a lot of programs in place and she says the City is not giving the District credit for what it is doing and the strides it has made. She says she hopes the Commission will consider staff's original recommendations.

James Kennedy, President of the VVWD Board of Directors, says a written summary of the District's views in response to the City's Plan for Service has been submitted and he says that summary provides a detailed analysis of the problems they see in the City's plan, particularly the elimination of many positions in both Districts and the proposed reassignment of District staff. Regarding the consolidation, Mr. Kennedy says the VVWD Board unanimously supports the consolidation of the two Districts, with all employees of both Districts remaining in place. He says they believe a consolidated district needs all employees from both Districts to provide the best and most consistent levels of service possible to the citizens of the community; that the current delivery and future supply will be the principal goals and will receive their concentrated attention; and that they believe no one can do this job better than the two Districts working together. Regarding the consolidated district being a subsidiary district of the City, Mr. Kennedy says some Board members believe nothing is to be gained by having the City Council governing the District's activities; that there is no compelling reason to merge the operations with the City; and question how the customers will benefit from a change if the District does the job as well as it can be done. He says others on the Board have no particular objection to a merger with the City and can accept the judgment of the Legislature and LAFCO that the activities of many special districts will be more effective if they are managed and coordinated by the local municipality. He says that the Board is unanimous in the belief that their first duty, which is to ensure the daily delivery of high quality water service and the intelligent planning for long-term water supply, is to their customers. He says the Board also unanimously believes that the City's Plan for Service, as it exists today, has little hope of achieving a successful consolidation and merger, nor will it allow the Districts to do their duty to their customers. He discusses that the staffs and Boards of both Districts know there will be a consolidation, and that the governance will likely be charged to the City, so he says the point is that none of them are in limbo about the eventual outcome; but they all share the common concern that the consolidation and merger be done properly. He discusses that the City's rationale in its Plan for the merger to be done immediately seems

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to be that there will be an actual cash savings of \$3 million, which will be accomplished by the elimination of unnecessary or redundant positions in both Districts. He says the Plan calls for the elimination of 45 positions in the combined Districts, which represents roughly 40% of the combined workforce—90,000 hours of work being done necessarily. As a CPA by profession and someone who has been actively involved in the VVWD budget process for the past six years, Mr. Kennedy says he was stunned to learn that the District is spending its customer dollars on that much work that does not have to be done and he was surprised to learn that City employees have enough time available to absorb all or most of the 90,000 hours of work. He says the real issue is that the City's plan will eliminate 40% of their workforce, without any plan to eliminate 40% of the work; that the truth is that the claims about redundant work and cash savings in the Plan have not been supported by hard data, and they do not think the claims can be supported. Mr. Kennedy says that he has no particular objection to a merger; that he believes a well-planned, well-thought out, well-executed merger can achieve some savings and some efficiencies, with potential efficiencies in maintenance, perhaps engineering and accounting and customer service. He says that the operative term is "well-planned" and that an effective merger cannot be accomplished when it is based on unsubstantiated claims that are seriously short on details. He says the staffs of the two Water Districts need time to work through and reconcile the financial and operational differences between the Districts and they need the participation of the City representatives to find the best opportunities to achieve benefits for their customers. He says the staff recommendations fit with that kind of well-planned, well-executed consolidation and merger and the City's plan does not so they urge approval of staff recommendation.

Guy Patterson, Interim General Manager of the BMWWD, says the BMWWD Board of Directors approved Resolution No. 2005-40 supporting the consolidation of the two Districts as a subsidiary district of the City. In answer to Commissioner Hansberger's question as to why the consolidation, Mr. Patterson explains that the BMWWD has finished a focused Master Plan for the area west of Highway 395, which is currently undeveloped and will require 20 million gallons of water a day as it develops. He says that both Water Districts currently pump water out of the ground and utilize it for domestic service; that they are recharging or constructing water treatment facilities along the Aqueduct and not utilizing reclaimed water, with the exception of the Victorville project, and they are not working together to solve these issues. He says there is a lot of planning and discussion but no action, and says he thinks the only way to see things happen is if the City takes the lead and implements them. He reports that the City has been very aggressive in looking at water conservation and has adopted a very strict and stringent water conservation ordinance and an ordinance requiring developers to install purple pipe for reclaimed water. He says it is the coordination between the City and two Water Districts and 15 elected officials that is causing the problems. He says the BMWWD talked years ago about implementing reclaimed water to golf courses, parks and landscape maintenance areas but he says that still has not happened because of a lack of coordination and the different viewpoints between the Water Districts and the City. Mr. Patterson says he heard from VVWD about retaining employees and says those are the first comments he has heard that they would retain the employees. He notes that in its resolution, the BMWWD supported that all Water District employees would receive a position either with the Water District or the City, which he says the City has agreed to do. He says they are very concerned that if the interim board is made up of three members from the VVWD and there are issues of redundancy, with the VVWD controlling that Board, they can imagine which employees will be let go. Regarding employees being held in limbo, Mr. Patterson says this issue has been going on for two years and he has employees who have postponed decisions on buying a car or a house and even starting a family because they are unsure of what the outcome of this issue will be; and he says that by becoming a subsidiary district, those employees are guaranteed a job. He says he echoes his Board's comments that the majority of the Board supports becoming a subsidiary district in combination with the VVWD; and he says if that does not happen, the Board would oppose staff recommendation and select to remain separate from VVWD and remain as they are today.

Norman Nichols, a recently elected Director of the BMWWD, says he ran on the platform that the District belongs to the Baldy Mesa water users. He says the people in their District are concerned about losing their District and influence, which is also his concern. He says that right now, both Water Districts are run by the water users, which is appropriate; that merging the Districts is fine as long as the water users, the ones that control the Boards, run the District. He comments that they do not need another Hesperia and

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the problems that arose there. He says government is there to serve the people; that if they want to put the two Districts together they should do that since a lot of money has been spent trying to get that done; but he says the people should still run the Districts. He comments that there is a lot of free production allowance water that the Districts buy; and he says when it is gone, they have to buy Aqueduct water to supplement shortages; that reclaimed water is an obligation through the MWA; that they must replenish downstream water so that is where that water goes. He requests that the Water Districts be elected by the water users.

Jonnie Maddox comments that she heard a lot of bashing today, particularly of VVWD and BMWWD, because they are overdrafting the basin. She points out that if there were no building permits, they would not need to issue will-serve letters, so she says giving the City control of the water seems like letting the fox guard the henhouse. Ms. Maddox says she is a VVWD retiree and she has not seen anything that addresses how the retirees will be affected through this consolidation and subsidiary district. She questions whether, if the subsidiary district is in control, those employees who worked for retirement benefits, such as medical coverage, would fall under the City's policies. She says if that is the case, many retirees of the VVWD would either have reduced medical benefits or none at all. She urges that the Commission not approve a subsidiary district.

There being no further speakers, Chairman Biane closes the hearing.

Commissioner Sedano says he heard that both agencies are in the business for the good of their customers; that they want to work together to serve water; but he says he also heard that the agencies are not talking to one another. He says he finds that appalling and is trying to figure out why they are not communicating with each other for the betterment of all their customers. He says if it is a personality problem with the politicians, his comment is that they "grow up and get with the program" because they are elected to oversee their Water Districts for the good of the people, not themselves. He reiterates that he thinks the best way to run the District is through a special district and, if they want to hold an election and reelect five different people, that is fine. He says they need to understand that they are there to serve the people, not themselves.

Commissioner Nuaimi comments that it has been interesting to listen to the various arguments. He says that assuming for argument sake that they consolidate and the District is a stand-alone district, the same people who will vote for the representation of that consolidated District are the same people who elect the Mayor and City Council of Victorville, so the people will have a voice in this whole process. He says he has great confidence in elected officials who represent cities; that they have to address all types of issues. He says that to hear that a reclaimed water program is not in place is frustrating. He discusses that he is troubled with the whole concept of savings; that he has heard four different sets of numbers; that a letter says there are 17 combined staff for customer service yet the fiscal analysis says there are eight; that one representative from a Water District said there may be savings in customer service and maintenance and engineering, yet there was no mention of management, human resources or finance, and no mention of the ability of the City from a bonding perspective or whether there has been an analysis for all capital needs that will come. He says he thinks that a single entity, elected by the people, representative of the community with all the interests at heart, is probably the best decision-making body. He says he heard a lot of conflicting testimony that makes him wonder whether an interim structure will work; and he has concerns, based on this conflicting testimony, if they put these people on a Board, they will be back in a year with the same questions and issues on consolidation. He says his position is to approve the ultimate form of governance now, a subsidiary district, and let the City address all the issues, since it will ultimately be responsible for what is put into place.

Commissioner Pearson comments that this is a difficult process to go through; that he knows many people here and has worked with many of them; that they are looking to make the right decisions that will be best for the people they all collectively serve. On the issue of who would govern the District if consolidation is approved, he says he does not like the fact that it has been recommended that VVWD have three votes and BMWWD have two votes because he says that does not make sense and would likely antagonize some of the players even more. He says that must be decided on a fair basis. He says staff has done a superb job in presenting all the important details, although there are still issues that need to

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be dealt with. He says he thinks that staff's proposal for an interim board, even though it can be complicated and frustrating, is important because there are people with very different opinions about how this should happen and there needs to be a transition period to come to some consensus of what will be best for the public. He comments that he does not know whether one year is the right amount of time for the transition period but he trusts Ms. McDonald's experience; and he says if they have this transition period, they can then move carefully and properly toward the ultimate goal of putting the water issue into the hands of the City. He points out that the history of how the City handled its subsidiary districts is behind them and he says the City has come forward and explained how the subsidiary district will be handled; that the City's words have given him a degree of comfort and he has enough respect for the people involved in this process to know they all can make this work very well. All things being equal, Commissioner Pearson says the City should be the ultimate overseer of these Water Districts; that the consolidation should be supported now; but he says there are issues that need to be addressed and problems that need to be solved related to the two Water Districts, and, in the meantime, the City can enhance the transition plan it has already started. However, he says they need to come up with a more reasonable oversight committee until the District becomes a subsidiary district than what has been proposed by staff. He says that not only did the inequality of that Board bother him but also the fact that the City would have no say, except as an ex-officio, which he notes is required by law. He says he thinks staff has come up with a good plan that can be worked out, with some modifications. He says the ultimate result that must be kept in focus is that they are all trying to do the best for the people they serve and they must put aside petty differences and accusations and work together. He says he has a tremendous amount of respect for everyone's ability to bring together that kind of a plan in a way that will make everyone proud.

Commissioner McCallon states that as a City Member, he agrees with Commissioner Nuaimi, who has very eloquently stated the case; and he says he also agrees with Supervisor Mitzelfelt's comments. He says he thinks they need to consolidate the Districts as a subsidiary district and they need to put the District under the City now. He says that he does not think that delaying that for a year for an interim process is workable for all the reasons that have been stated; and he says that, as Mayor Nuaimi said, the subsidiary district will be under the control and direction of the elected officials who have to make all the decisions. He says he supports the alternative staff recommendation.

Commissioner Hansberger thanks everyone who testified for the civil and informed way they presented themselves and for their thoughtful and considered remarks. He discusses that a number of studies have been done in the past to look at the efficiency of special districts and he says most studies concluded that special districts are more efficient and effective because they focus on an issue and do it very well. He says he thinks those studies are correct, but they overlook that when a special district is totally separate and not obliged to be a partner with the other things a municipality does, it does not have to take into account many other activities, like land use, that a City has to take into account. He says that although he suspects that the County and some cities do not run some of their departments as effectively and efficiently as free-standing, self-governed districts do, he thinks the process of partnering within the entity to achieve a bigger picture objective is necessary and appropriate and that focusing that responsibility on a body which can be identified by the public is appropriate. He says that leads him to believe it is necessary to ultimately bring this District under the responsibility of the City.

Commissioner Colven, the Special District representative from the Big Bear community, says he looks at this as a need for cooperation because the essential thing here is survival; that water is the staff of life and without it there is no life. He notes that Mr. Roberts mentioned the overdrafting that is going on. He says that is unbelievable, given how they shepherd the water supply in the mountains based on the program they are obligated to observe. He says this is a survival issue and, to survive, they need to get together and do it conjunctively.

Commissioner Mitzelfelt says he represents this area and will not get to vote, but he reiterates his previous remarks relative to the proposed structure of the independent district. He says he is very skeptical that would work; that his concern is that it would take considerably longer than a year. He says he thinks that under the subsidiary district scenario in the alternative recommendation, the City shares the

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same sense of urgency that he does. He says his position is that the alternative is a more appropriate and realistic recommendation.

Chairman Biane also thanks everyone for their testimony, noting that whatever decision is made today probably will not be the right decision for somebody in the audience. He says that in listening to the comments of the Commissioners, he thinks there is a unanimous voice saying it is time to move forward with consolidation and that they want to go with a subsidiary district run by the City. He says he heard a couple of different voices regarding the transition period; that Commissioner Pearson thought that having two members from each District and a lottery to pick the 5th member might work; but he says the greater voice is saying that, although it is not perfect, the City is probably the best elected body to sit over this transition process. He asks if there is a motion for the alternative recommendation.

Commissioner Nuaimi points out that would be recommendation No. 5 on pages four and five of the staff report. Ms. McDonald explains that staff's alternative recommendation states that the Commission will indicate an intent to approve the modified LAFCO 2991 to consolidate the two Districts as a subsidiary district. She says the Commission is not approving this in total today, pointing out that there are certain things required in 5(c)(i., iii. & iii.) that the City and Districts must submit in order to bring this back to the Commission to finalize. Commissioner Nuaimi asks whether the required transition plan will include retirees. Ms. McDonald responds that the employee plan is for existing employees but she says the Commission can modify that recommendation to ask for specific language to address retirees.

For clarification, Legal Counsel Clark Alsop states that if the Commission is proposing to go with the alternative plan with some modifications, it should approve staff recommendations Nos. 1, 2, 3 and 4 on pages one through three of the March 13 staff report, and then approve alternative staff recommendations No. 5, as modified, and No. 6 on pages four and five of the staff report. Commissioner Nuaimi questions whether the transfer of liabilities, assets, contracts and obligations would include, by definition, the retirees. Mr. Alsop says it would and says he took his question to make sure it is in the record as to what will happen. Commissioner Nuaimi says one of the concerns he heard was the cost allocation for overhead functions like Human Resources, finance, City Manager and a variety of other overhead, nondirect benefits to the District. He asks whether the City has a structure in place or a formula of what the cost allocation is expected to be as part of this initial formation so they will know how those savings and indirect impacts are going to hit each of the Districts. Ms. McDonald responds that the City adopted a resolution specifying what it would and would not charge the subsidiary district for, a copy of which resolution was included in the supplemental report for the February meeting. However, she says that resolution was modified last night by the City Council and a copy of it will be included in the materials that will be provided to the Commission when the action is ready to be finalized.

In response to inquiry of Commissioner Colven, Ms. McDonald says that alternative staff recommendation No. 5 indicates the Commission's intent to approve consolidation and that recommendation No. 6 directs that once the identified materials have been received, staff schedule the final consideration of LAFCO 2991 to answer any questions and to adopt of the appropriate resolution, including the specific terms and conditions.

Commissioner Nuaimi asks what kind of public notice has been given on the consolidation effort. Ms. McDonald responds that notice was provided in newspapers; that early in the process the Districts included information regarding this consideration in the monthly bills to their water customers. She says that beyond that, staff has not undertaken an outreach program to the water users.

Commissioner McCallon moves approval of staff recommendations Nos. 1 through 4 and alternative staff recommendations No. 5, as modified, and No. 6, seconded by Commissioner Pearson. Chairman Biane calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: Cox (Curatalo voting in her stead). Absent: None.

(It is noted that Commissioners Hansberger, Cox and Mitzelfelt leave the hearing at 11:50 a.m.)

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DISCUSSION ITEMS

CONSIDERATION OF BUDGETARY REVIEW (REVENUE AND APPROPRIATION ADJUSTMENTS) – TAKE OFF CALENDAR

LAFCO considers a budgetary review related to revenue and appropriation adjustments. Notice of this consideration has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual 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 reports that the Commission continued the discussion of revenue and appropriation adjustments from its February 21 hearing to today. She says that staff is recommending that this item be taken off calendar after determining that it would be appropriate to combine this discussion with the Proposed Budget Review which will begin at the April 18 hearing.

Chairman Biane notes that no one has requested to speak on this item.

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

(It is noted that Commissioner Curatalo leaves the hearing at 11:53 a.m.)

PENDING LEGISLATION

Ms. McDonald presents the staff report on pending legislation, which includes the CALAFCO Legislative Report as of March 12, 2007, 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 AB 1263 proposes to modify the determinations required for a municipal service review/sphere update to clarify and simplify those determinations. She notes that the Commissioners have received this morning a letter drafted for Chairman Biane's signature in support of this bill and says staff is requesting support and approval to submit this letter to the Legislature. She discusses SB 806 which relates to the current fire reorganization in process for San Diego County. She says that although it is unique to San Diego County, staff wants to watch this bill in case assistance is needed as this Commission moves forward with the County Fire Reorganization as a possible means of augmenting funding for that service. She reports that SB 162, related to the inclusion of "Environmental Justice" as a factor of consideration, was heard on March 7 and she says CALAFCO has taken a watch position since there is no unanimity on a position. Chairman Biane states he is opposed to this bill with "every fiber of my being" and he says it is just bad. Ms. McDonald says that, as discussed at last month's hearing, staff understands this in a CEQA context and the siting of facilities, but she says staff has difficulty understanding the application of this in a LAFCO setting where the Commission is responding to land use decisions made by other entities. Ms. McDonald says the staff report includes a copy of AB 1260 and a copy of a publication from Best Best & Krieger related to an attempt to address a Supreme Court decision which indicates that water rates of the Bighorn-Desert View Water Agency are subject to Proposition 218. She says staff understands that this Bill is a placeholder bill for now.

Ms. McDonald says staff recommends that the Commission support Chairman Biane's signing and sending the letter of support for AB 1263. Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner McCallon. Chairman Biane calls for any objections to the

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motion. There being none, the vote is as follows: Ayes: Biane, Colven, McCallon, Nuaimi, Pearson.
Noes: None. Abstain: None. Absent: Cox and Hansberger.

EXECUTIVE OFFICER'S REPORT

Ms. McDonald states that the Commissioners have been presented today with information regarding the CALAFCO Annual Conference, which will be held August 28 through August 31 in Sacramento, a reminder that Form 700s are due to the LAFCO office on April 2, other information from Best Best & Krieger regarding another Supreme Court decision related to long-term water supply and an article from the California Special Districts Association e-NEWS regarding the 2007 Special Districts Legislative Days and the Bighorn-Desert View Water Agency decision. Ms. McDonald reports that the Commissioners have also been presented with a copy of a newspaper article related to the Helendale Community Services District and the fact that the lawsuit filed against the election is set to be heard on April 30 to determine whether the voters should go back to the polls.

Ms. McDonald states that the April 18 agenda will include resolutions to adopt related to the Victorville community municipal services reviews/sphere updates, an annexation to the City of Rialto in the Bloomington community, and the beginning of the Budget session. She reports that at the May 16 hearing, the Commission will complete its budget review and consider the formation of the Phelan Pinion Hills Community Services District.

COMMISSIONER COMMENTS

Commissioner Sedano wishes everyone a great time at the April 18 hearing since he will be celebrating his birthday on the ocean on his way to Hawaii.

COMMENTS FROM THE PUBLIC

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

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 12:00 P.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Chairman