

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF MAY 19, 2004**

REGULAR MEETING

9:00 A.M.

MAY 19, 2004

PRESENT:

COMMISSIONERS:	Jim Bagley, Chairman	A. R. "Tony" Sedano, Alternate
	Paul Biane, Vice Chairman	Gerald Smith
	Bob Colven	Diane Williams
	Neal Hertzmann, Alternate	Clifford Young
	Richard P. Pearson	

STAFF:

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

ABSENT:

COMMISSIONERS:

James V. Curatalo, Alternate
Dennis Hansberger, Alternate

REGULAR SESSION - CALL TO ORDER - 9:07 A.M.

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

Chairman Smith 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.

SWEARING IN OF REGULAR CITY MEMBER OF THE COMMISSION

Executive Officer Kathleen Rollings-McDonald announces that there will be no swearing in of a Regular Special Districts Member. She says that at the meeting on Monday night of the Special Districts Selection Committee, there was no quorum so an election could not be held. She says that since the Committee has been unable to achieve a quorum at the last two meetings, it was declared that the election will be conducted by a mailed ballot process which will take 60 to 90 days. She says Commissioner Smith will continue in his position until there is an election.

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to Regular City Member Jim Bagley, whose term of office expires May 2008.

INTERVIEW, SELECTION AND SWEARING IN OF ALTERNATE PUBLIC MEMBER OF THE COMMISSION

Executive Officer Kathleen Rollings-McDonald presents the staff report related to the selection of the Alternate Public Member of the Commission, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the staff report includes applications from Tony Sedano, who is seeking reappointment to his current position, and Mary Murphy who resides in Highland. She says the term of office will expire on the first Monday in May 2008. She explains that both candidates are present this morning to provide a brief presentation outlining their qualifications and

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reasons for their interest in this position, after which the Commissioners may ask questions and then make a selection.

Mr. Sedano and Ms. Murphy give their presentations. Ms. McDonald states that in the selection process Commissioner Pearson, as the Public Member, will not vote; and she says the successful candidate must receive four votes, with at least one affirmative vote from each of the three other membership categories.

Commissioner Bagley nominates Mr. Sedano. He says Mr. Sedano has been a very active member, who brings extensive civic experience to the Commission, and that it would be a very good thing to have him continue on the Commission. He says he appreciates Ms. Murphy for participating in the application process. Commissioner Young seconds the nomination stating that he has known Mr. Sedano for a while in his capacity as a Commissioner, as well as in other capacities in the community. He says he also appreciates Ms. Murphy for applying and her willingness to serve on the Commission.

Commissioner Smith says that he would like to see a nomination for Ms. Murphy so they could do the voting process. Ms. McDonald explains that the motion on the floor is the nomination of Mr. Sedano as the Alternate Public Member. She says they need to vote on that motion and, if it fails, then they will consider another nomination.

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

Ms. McDonald announces that Mr. Sedano has been re-selected as the Alternate Public Member of the Commission and that the Clerk will swear him in. Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to A. R. "Tony" Sedano, whose term of office expires May 2008.

(It is noted that Commissioner Biane arrives at 9:15 a.m.)

ELECTION OF CHAIRMAN AND VICE CHAIRMAN - JIM BAGLEY ELECTED CHAIRMAN; PAUL BIANE ELECTED VICE CHAIRMAN

Executive Officer Kathleen Rollings-McDonald presents the staff report related to the election of the Chairman and Vice Chairman, 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 Commissioners Smith and Bagley are not eligible for reappointment to their current positions.

Ms. McDonald opens the nominations for Chairman. Commissioner Williams nominates Commissioner Bagley, seconded by Commissioner Pearson. Ms. McDonald calls for further nominations. There being none, she calls for a motion to close nominations. Commissioner Young moves to close the nominations, seconded by Commissioner Colven. Ms. McDonald calls for a voice vote on the nomination of Commissioner Bagley as Chairman and he is unanimously elected.

Ms. McDonald opens the nominations for Vice Chairman. Commissioner Williams nominates Commissioner Biane, seconded by Commissioner Young. Ms. McDonald calls for further nominations. There being none, she calls for a motion to close nominations. Commissioner Pearson moves to close the nominations, seconded by Commissioner Williams. Ms. McDonald calls for a voice vote on the nomination of Commissioner Biane as Vice Chairman and he is unanimously elected.

Commissioners Bagley and Biane thank the Commission for electing them as Chairman and Vice Chairman.

Ms. McDonald turns the meeting over to Commissioner Bagley as the new Chairman.

APPROVAL OF MINUTES FOR REGULAR MEETING OF APRIL 21, 2004

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

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 April 2004 and noting cash receipts. A Travel Claim 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 April 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 Young moves approval of the consent calendar, seconded by Commissioner Pearson. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams, Young. Noes: None. Abstain: None. Absent: None.

DISCUSSION ITEMS

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR FEE SCHEDULE REVISIONS;
AND (2) REVIEW AND ADOPTION OF FILING FEE SCHEDULE FOR FISCAL YEAR 2004-05 -
APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to review and adopt the Filing Fee Schedule for Fiscal Year 2004-05. Notice of this hearing 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, County departments, cities/towns, independent special districts, the County and those individuals 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 following the April hearing, staff forwarded to the cities/towns, independent special districts and the County Administrative Office a copy of the proposed Fee Schedule for review. She reports that in the interim, no comments have been received on the Fee Schedule adjustments. She says the staff recommendation is that the Commission: (1) certify that the proposed revisions to the Schedule of Fees and Charges are statutorily exempt from the provisions of the California Environmental Quality Act and instruct the Clerk to file a Notice of Exemption within five days; (2) adopt the Schedule of Fees and Charges, as modified, effective June 1, 2004; and (3) adopt LAFCO Resolution No. 2817 reflecting the Commission's determinations.

Commissioner Hertzmann comments that the statement in the Fee Schedule which explains that the \$4,000 annexation fee is assessed for each area of consideration is confusing and he asks for clarification of that.

Ms. McDonald responds that if an application includes the annexation of three areas, one on the north side of a city, one on the east side and one on the west side, that proposal would be considered a reorganization and each of those three annexation areas would be charged a \$4,000 filing fee. She explains that the map and legal description for each of those areas is processed separately and each individual area is advertised separately. She points out that the State Board of Equalization charges a completion fee for each individual geographical area. Commissioner Hertzmann asks when an application would only be charged one \$4,000 fee. Ms. McDonald says that a proposal for the

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annexation of one single-defined area, described by a single legal description, to both the City of Big Lake and the Fire Protection District, would only be charged one \$4,000 fee. She says when there are separate defined areas in different locations in one application, a fee is assessed for each area.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak. There is no one and he closes the hearing.

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

REVIEW AND ADOPTION OF FINAL BUDGET FOR FISCAL YEAR 2004-05 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to review and adopt the Final Budget for Fiscal Year 2004-05. Notice of this hearing 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, County departments, cities/towns, independent special districts, the County and those individuals 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 following the April hearing, staff forwarded to the cities/towns, independent special districts and the County Administrative Office a copy of the proposed Budget for review. She says the only change is that after the April hearing, staff was notified by CALAFCO that it was proposing a reduction to \$10,000 in the budgeted payments for Clark Alsop as CALAFCO Legal Counsel, and she says the staff report indicates a reduction from \$20,000 to \$10,000. She notes, however, that recently staff was notified by CALAFCO, following its Executive Board meeting, that the reduction will be to \$15,000. She says the budget as presented should be amended, increasing the Legal Counsel appropriation by \$5,000 and Legal Service fees by \$5,000.

Ms. McDonald discusses that in April the Commission asked for a review of its stipend. She says information has been provided in the staff report indicating that the stipend was increased in 1981 to \$100, at which time a differential between a half-day and a whole-day meeting was also removed. She reports that the stipend was looked at again in 2002, but says the Commission did not feel that a change was warranted at that time. She says the staff report includes an outline of the stipend paid and number of annual meetings for the urban counties. Ms. McDonald says the staff recommends an adjustment in the stipend to \$150, which equals what Los Angeles LAFCO Commissioners receive, which requires an amendment to Policy #31. She says this change will require an adjustment in the Professional Services Account, which necessitates a corresponding reduction in the Reserve Account to a total of \$44,703.60.

Ms. McDonald says the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) amend Policy #31, Subsection #1, to increase its stipend to \$150; (2) adopt the Fiscal Year 2004-05 Final Budget, as modified; and (3) direct the Executive Officer to submit to the County Auditor/Controller-Recorder the adopted Final Budget and request the apportionment of the Commission's net costs to the County, Cities/Towns and Independent Special Districts pursuant to the provisions of Government Code Section 56381.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak. There is no one and he closes the hearing.

Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Young.

Commissioner Pearson asks whether there is an update on the issue of the COWCAP charges discussed last month. Ms. McDonald responds that the County agreed that a \$5,000 reduction in the charge is

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appropriate. She says they are still working on whether the reduction should be \$10,000 rather than \$5,000.

Ms. McDonald says that the Commission has been presented this morning with a LAFCO Apportionment update for special districts. She says the State-Controller issued the updated report for special districts for the year 2000-01 which applies to the formula distribution of their share of LAFCO costs. She says that when the budget was submitted for information, the 1999-2000 costs were used.

Upon inquiry of Chairman Bagley, Ms. McDonald confirms that the Commission has discretion to change the stipend statutorily without limitations and that it will go into effect immediately. Chairman Bagley explains that he asked about the stipend because the Twentynine Palms City Council adjusted its stipend for inflation and was prohibited from implementing the change until after an election cycle. He says he wants to make sure the Commission is not violating anything. Ms. McDonald states that LAFCO statutes do not include that kind of prohibition. Legal Counsel Clark Alsop says the Government Code provisions on what cities may pay and how they may do that prohibit cities from doing that until the next election. He says the Commission is not prohibited in that way. Chairman Bagley says he would like to see the stipend adjusted even further in the future, but says that is beyond the scope of the discussion today. Ms. McDonald says the stipend could be reviewed annually as part of the budget cycle.

Commissioner Hertzmann says that on page four of the budget narrative it says that staff is estimating the LAFCO net cost to be \$456,000, which is a \$34,000 decrease over the prior year. He asks if when there is such a decrease, there is a decrease in the cost to cities, districts and the County. Ms. McDonald responds that the actual allocations to each category were reduced by approximately \$13,000, or almost 10%. Commissioner Hertzmann comments that it is curious to him that while the City of Big Bear Lake is the next to the smallest city in this County, there are about 15 or 20 other cities that pay less. Ms. McDonald explains that it is based on a formula that is derived from and based on revenue and expenditure reporting from each of the cities to the State Controller's Office. She says the report by the State Controller's Office provides the information upon which the Auditor's Office bases its calculations for the apportionment of costs. Commissioner Bagley comments that it would be interesting to do a per capita count because he says communities like Big Bear have a higher percentage of special districts and the people in Big Bear would probably pay a higher share.

With no further discussion, Chairman Bagley calls for a voice vote on the motion and it is as follows:
Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams, Young. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO SC#223 - RELINQUISHMENT OF FOOTHILL BOULEVARD TO CITY OF FONTANA - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider an exemption from Government Code Section 56133 for LAFCO SC#223 - Relinquishment of Foothill Boulevard by the California Transportation Commission to the City of Fontana (hereinafter referred to as "the City"). Notice of this hearing was advertised as required by law through publication in The Sun and the Fontana Herald News, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals 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 reads from Subsection (e) of Section 56133 which provides an exemption for some contracts. She says that on March 24, 2004, the City requested a determination that the contract between the City and the California Department of Transportation (CALTRANS) relinquishing the State's obligations for maintenance of Foothill Boulevard was exempt from the provisions of Government Code Section 56133. She explains that the relinquishment became effective March 9, 2004, when the California Transportation Commission's Resolution No. R3571 was recorded; therefore, the action before the Commission is a housekeeping item to confirm that the contract is exempt, based on the four findings outlined in the staff

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report. Ms. McDonald says staff believes those findings can be made and says the staff recommendation is that the Commission determine that LAFCO SC#223 complies with the exemption listed in Government Code Section 56133, Subsection (e) and, therefore, does not require Commission approval to proceed.

Commissioner Colven asks whether parameters by CALTRANS, such as easements, will remain in place or whether the City can change them since the City is now responsible for the highway. Ms. McDonald responds that the City can improve the highway to the full roadway width of its circulation element. She says the resolution by the County of San Bernardino gives them the ability to acquire further roadway in the unincorporated area.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak. There is no one and he closes the hearing.

Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Young. Chairman Bagley calls for further discussion.

Commissioner Pearson commends the City for moving ahead with this program to clean up some of those areas the Commission has been looking at and discussing for years.

With no further discussion, Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams, Young. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF FONTANA FOR ANNEXATION NO. 156/PRE-ZONING/FOOTHILL BOULEVARD STREET IMPROVEMENT PROJECT AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2954; AND (2) LAFCO 2954 - CITY OF FONTANA ANNEXATION NO. 156 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal initiated by the City Council of the City of Fontana (hereinafter referred to as "the City") to annex approximately 3.57 acres, generally located on the south side of Foothill Blvd., at its southwestern intersection with Tokay Avenue. 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 of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says that as initially submitted, the annexation area is generally bordered by Foothill Blvd. on the north, the centerline of Tokay Avenue on the east, a combination of Mission Street and the alley backing the parcels fronting Foothill Blvd. on the south and a combination of the alley and Catawba Street on the west. She reports that the annexation area is primarily vacant land, but says the developed parcels fronting Foothill Blvd. include Sonora Tires and Global Realty and that a single-family residence is located at the corner of Mission Street and Tokay Avenue.

Ms. McDonald shows photographs on the overhead display of the alleyway boundary proposed by the City. She says that as staff began reviewing this application, it determined that the use of the alley would not provide for an effective service boundary and that staff has proposed the expansion of this proposal to include the seven parcels that front Mission Street. She notes that these parcels are currently developed with single-family residential homes and were included as part of the City's pre-zoning process, but she says they were not included in the property tax transfer review process. She says the legal ad and notices sent to voters and landowners inside and surrounding the area included information that the proposal was being expanded. She discusses the City's pre-zoning process for the study area, as outlined in the staff report, and says it identifies commercial uses along the Foothill Blvd. and Tokay Avenue frontages and single-family residential uses for the eight parcels along Mission Street.

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Ms. McDonald summarizes the services to be provided, which are outlined in the Plan for Service attached to the staff report. She reports that the City conducted the environmental assessment for the project identified as "Annexation No. 156/Pre-Zoning/Foothill Boulevard Street Improvement Project" and says the assessment has been reviewed by the Commission's Environmental Consultant, Tom Dodson and Associates, who has determined that the documents are adequate for the Commission's use.

Ms. McDonald says the findings required by Commission policy and State law are outlined in the staff report and are made a part of the record by their reference herein. She says the staff recommendation, which is on page one of the staff report, is that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment, take the actions identified in the staff report, and direct the Clerk to file a Notice of Determination within five days; (2) expand the proposal to include the seven additional lots fronting Mission Street and approve LAFCO 2954, as modified; and (3) adopt LAFCO Resolution No. 2818 setting forth the Commission's findings, determinations and conditions of approval.

Commissioner Pearson asks whether the fact that the County and the City have not completed negotiations on the expanded area has a potential impact on the Commission taking action today. Ms. McDonald says it does not. She explains that the property tax negotiations were completed for the original applications and says there is a process in Section 99 of the Revenue and Taxation Code that addresses the modifications of proposals. She says information is ready for the expanded area and it will be conveyed to the City and County following approval of the expanded proposal. She says the property tax process can be completed while staff works on the protest proceedings.

Commissioner Sedano states that staff did an excellent job by expanding the proposal and he asks why the City did not initiate an expanded area, noting that Commissioner Bagley has complained about this issue for months. Ms. McDonald states that she does not know why, but she points out that the City's pre-zoning did include the entire block area. She adds that notice of this hearing was provided to all voters and landowners in the expanded area and says the area still remains uninhabited with ten voters. Commissioner Colven comments that the conclusion in the staff report includes the statement that the annexation will "square off" the City's boundaries and he says the City should "keep it up".

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

Cecilia Lopez-Henderson, Senior Administrative Analyst for the City, says, in response to Commissioner Sedano's comment, that the City pre-zoned the larger area and notified landowners in the larger area, but did not receive written support for annexation. Ms. Henderson explains that the City Council's direction to staff is that it would like to see written support for annexation on file and she says they did not receive support to move forward to include the seven additional parcels. She points out, however, that there have been fatalities along that intersection in the last two months and says the City was anxious to move forward with annexation. She reiterates that the pre-zoning process looked at the larger area in hopes that the City would follow up with an annexation to include those parcels. She says that LAFCO staff did initiate the expansion and says she is glad to hear there has been no protests, but she notes that some property owners are in the audience today to address the issue.

Chairman Bagley comments that in looking at the map attached to the staff report, there is a logical boundary going down south to the railroad tracks that would be an efficient annexation for the City to submit. He asks whether there have been any discussions about annexing these larger areas. Ms. Henderson responds that the Commission's message to the City Council has been heard and it is being discussed.

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

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

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CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF BIG BEAR LAKE FOR SITE APPROVAL AND DESIGN REVIEW 2000-136, PRE-ZONE 2000-137 AND PRE-ANNEXATION AND DEVELOPMENT AGREEMENT 2000-140 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2955; AND (2) LAFCO 2955 - REORGANIZATION TO INCLUDE ANNEXATIONS TO CITY OF BIG BEAR LAKE AND BIG BEAR LAKE FIRE PROTECTION DISTRICT AND DETACHMENTS FROM COUNTY SERVICE AREA 53, IMPROVEMENT ZONES A, B AND C (HOLLOWAY'S MARINA) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal initiated, at the request of the landowner, by the City Council of the City of Big Bear Lake (hereinafter referred to as "the City") and the City Council as the Board of its subsidiary Big Bear Lake Fire Protection District (hereinafter referred to as "the District"). The reorganization area encompasses approximately 4.1 acres, comprised of two areas, generally located along the Big Bear Lake shoreline, west of Edgemoor Drive, between Metcalf Bay Landing and Lake Drive, and includes the remaining portions of the development known as "Holloway's Marina", which are not a part of the City. Notice of this hearing has been advertised as required by law through publication in The Sun and the Big Bear Life & Grizzly, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that the surrounding land uses include vacant and residential uses to the north, east and south within the City and that the land use to the west is a part of Big Bear Lake within the unincorporated area. She says the County's land use designation for the reorganization area is Bear Valley Floodway, with an Improvement Level 5 indicating that no service extensions are necessary. She reports that this land use designation does not acknowledge the reclamation of these lands from Big Bear Lake, which took place some time in 1972 or after, and says it was assumed the area would be part of the City since it is above the high water line. Ms. McDonald discusses the City's pre-zoning of this area as Commercial Resort and says the City's land use approval considered a site approval, design review and a development agreement, as outlined in the staff report. She summarizes the joint Plan for Services submitted by the City and the District and notes that the County Fire Department expressed concern regarding the transfer of revenues with no corresponding reduction in operating costs. She reports that because of the location of the area, the District has historically served the area and can continue to provide service. She says the City conducted an environmental assessment which has been reviewed by the Commission's Environmental Consultant Tom Dodson and Associates, who found the City's documents adequate for the Commission's use.

Ms. McDonald reports that the County Assessor has verified that the application possesses 100% landowner consent and that the Registrar of Voters has certified that the area is uninhabited, with no voters. She says staff requested the concurrence of the City, District, and County Service Area 53 for a waiver of protest proceedings. She reports that these entities have consented to a waiver in writing and says staff is recommending a waiver of the protest proceedings, with direction to the Executive Officer to complete the reorganization. She says all findings required by Commission policy and State law are included in the staff report and says the staff recommendation, as listed on page one of the staff report, is that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment, take the actions identified in the staff report, and direct the Clerk to file a Notice of Determination within five days; (2) approve LAFCO 2955; (3) waive the protest proceedings; and (4) adopt LAFCO Resolution No. 2819 setting forth the Commission's findings, determinations and standard conditions of approval. She says this brings to a close a long and trying period for the City and commends the City for its diligence in working with LAFCO staff on this issue.

Commissioner Hertzmann says that Finding No. 13 on page six of the draft resolution says that the County and the City have successfully negotiated a transfer of property tax revenues. He says that is not true because it was a twenty-five year or older agreement that predated the City, that set up this formula.

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Ms. McDonald discusses the formula distribution, stating it was established in 1982, following the City's incorporation, in response to SB 180, which required that before LAFCO review any application, there must be a successful property tax negotiation between the City and the County. She says that over a seven month period, a committee of city managers and County staff worked diligently to come up with what it felt was an equitable formula distribution so that individual negotiations would not be required, since back then there was only a thirty-day window for negotiations to occur or the proposal was terminated. She says no one liked the formula, but it was a compromise. She reports there have been movements to look at an alternative formula and reports there was a policy shift adopted by the County for those cities that receive less than 7% as their historic share, guaranteeing that they would receive 7% of the general ad valorem levy. She notes that for island annexations, where the area is primarily developed, the County agreed to give the city its total historic share since development is not anticipated. She says that even though this is not a true negotiation in the sense that everyone sits down and negotiates, this formula has allowed the process to move forward. She reports that there is now a sixty-day negotiation period and she explains that if negotiations are not successful, the proposal is terminated. She points out, however, that for "qualified" city annexations, there is a process for arbitration and mediation before termination; but she says there is no requirement that the arbitration or mediation be successful and says no city has gone through that process yet.

Commissioner Hertzmann state that he does not believe the words used in that finding are correct. He says the \$53 that the City will gain with this annexation were not the result of a negotiation, but a formula that was established twenty-some years ago; and he says he believes those are the words that should be in that finding. He adds that he does not believe that the City was involved in developing the formula. Ms. McDonald says the City participated overall, but she says its City Manager may not have been selected to serve on the committee. Commissioner Hertzmann says the formula that was developed is not a negotiation with the current City people and that the formula should be relooked at every 20 years or so.

Commissioner Biane comments that he believes Ms. McDonald is legally correct in how she words the finding, even though that is not what actually happens. He says she has pointed out that there could still legally be negotiations because each jurisdiction could sit down and negotiate something different, even though the distribution is set by formula. Ms. McDonald says that when the property tax transfer process begins, representatives of all the affected agencies are notified. She says that notice also indicates who should be contacted in the County if someone has questions or wants to the discuss the matter. She reiterates that although the formula stands, it can be changed if the County and City agree to the change. Legal Counsel Clark Alsop comments that Commissioner Biane is correct. He says the language in the finding should stay as it is, but that the minutes can reflect Commissioner Hertzmann's concerns.

Ms. McDonald says that representatives from the City and District are here this morning if there are any questions.

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

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

**DESIGNATE SPECIAL COUNSEL FOR REPRESENTATION OF THE COMMISSION FOR LAFCO
2958 - CITY OF COLTON REORGANIZATION TO INCLUDE SOUTH ANNEXATION NO. S-50
(SUBAREAS 1-4) AND LAFCO 2959 - CITY OF COLTON SOUTH ANNEXATION NO. S-51 -
APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider the retention of Jeffrey Goldfarb of Rutan and Tucker as Special Counsel for LAFCO 2958 (City of Colton Island Annexations No. S-50) and LAFCO 2959 (City of Colton Island Annexation No. S-51). Notice of this consideration has been advertised as required by law

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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 City of Colton has submitted two applications for the annexation of six islands. She explains that Legal Counsel Clark Alsop is a partner in the law firm of Best Best and Krieger, which is also the City Attorney for the City of Colton, and that he has indicated that he has a conflict. She says staff contacted Mr. Goldfarb who indicated that he has no conflict and will be able to represent the Commission on these proposals.

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

Commissioner Colven asks whether the reduction in legal counsel fees discussed earlier will affect special counsel representation. Ms. McDonald responds that it will not and says the City will pay those costs. She explains that the prior discussion related to CALAFCO's budget for Mr. Alsop's participation as CALAFCO Legal Counsel.

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

PENDING LEGISLATION

Executive Officer Kathleen Rollings-McDonald presents the Legislative Report, a copy of which has been presented to the Commission this morning and a copy of which is on file in the LAFCO office and made a part of the record by its reference herein. Ms. McDonald reports that since the April presentation of the CALAFCO Legislative Committee activity report, a number of amendments to bills affecting LAFCO have taken place.

Ms. McDonald reports that SB 1266 has been amended to remove the provisions opposed by the CALAFCO Legislative Committee and to increase the acreage limitation on the special island annexation provisions to 150 acres. She also points out that language that says the island cannot be part of an island larger than 100 acres has also been removed. She says CALAFCO now supports this bill and says e-mails were sent to those cities that will be affected by this legislation seeking their support.

Ms. McDonald reports that CALAFCO opposed the April 12 amended version of AB 2306, which was amended again on April 22. She says she believes CALAFCO will still oppose the bill because it eliminates the Commission's ability to condition the initiation of proceedings for another change, which she notes has been used successfully by the Commission in a number of areas in this County related to special island provisions. She says a primary concern is that the provisions of the bill are in direct conflict with the terms and conditions the Commission is authorized to impose in Government Code Section 56885.5, Subsection (2).

Ms. McDonald reports that AB 3077 has one change that will affect the operation of this Commission because it will now require individual mailed notice of protest proceedings to landowners and voters residing within a proposal's boundaries.

Ms. McDonald says no action is required today. She asks that if anyone has any positions to be conveyed to any legislative committees, they let her know and she will be happy to do so.

Chairman Bagley asks whether there are any questions or directions for staff.

Legal Counsel Clark Alsop comments that AB 2306 is an example of bad government in action. He explains that a City Manager in Ventura County is opposed to Ventura LAFCO's policy that if a city wants

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to annex an area, it must also annex its islands. He says that City Manager convinced a member of the Assembly to carry a bill prohibiting that, and says the prohibition applies Statewide. Commissioner Williams asks whether this bill will negate the language in Cortese-Knox-Hertzberg that recommends that commissions look at the elimination of islands. Mr. Alsop responds that it puts that legislation into doubt and creates a conflict because the Commission is directed to look at the elimination of islands, but, if this passes, will not be able to do so. He notes that CALAFCO has presented this issue to the Author, but he says it has not done any good yet.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that on the June 16 Agenda will be two requests for exemption from Government Code Section 56133, annexation of a City of Upland island, which was required by the Commission through its review of the larger College Heights island annexation, an annexation to the City of Montclair, and service reviews for the Bloomington Recreation and Park District and the City of Colton. She reports that in July the Commission tentatively will consider two City of Hesperia proposals, which include detachments from the County Service Area 70, Improvement Zone J water system, and for which she says language will be needed regarding the separation of those systems and allowing parallel lines in certain instances. She says the tentative August Agenda currently includes eleven service reviews, but she says that they all probably will not remain on that Agenda.

Ms. McDonald says she hopes the new way staff reviewed maps and showed the general areas of consideration to the Commission today was helpful and says they will try to continue doing that in the future. Commissioner Williams comments that the photos really made an impact and were helpful in seeing the areas they are considering. Ms. McDonald comments that some of the areas are so large that aerials maps are needed, but she says where possible, pictures will be provided. Commissioner Williams comments that most cities have aerial maps they could share.

Ms. McDonald reports that a consolidation package has been received from the Inland Empire West Resource Conservation District and the East Valley Resource Conservation District. She notes that staff expects to receive four applications for annexations to the City of Rancho Cucamonga and annexations to the City of San Bernardino.

COMMISSIONER COMMENTS

Commissioner Sedano thanks the Commission for having confidence in him and reappointing him as Alternate Public Member.

Commissioners Bagley and Biane also thank the Commission again for their election as Chairman and Vice Chairman.

Commissioner Smith thanks the Commission for its past support of him as Chairman and says it was a learning experience.

COMMENTS FROM THE PUBLIC

Chairman Bagley calls for comments from the public.

Ken Hammond, Fire Chief of the Big Bear Lake Fire Protection District (hereinafter referred to as "the District"), comments that the in action taken earlier this morning involving annexation to the City of Big Bear Lake and the District, the property tax transfer negotiations transferred County Service Area 70 (CSA 70) funds to the City. He says that all the documentation he has been able to research shows that CSA 70 money is a Countywide assessment in place for fire administrative support and he says he is curious why the CSA 70 money was transferred to the City instead of the District. Chief Hammond says he also looked at the twenty-year old documents he could find on the negotiation formula and discussed it with his staff and LAFCO. He says the resolution that was passed indicates to him that cities, towns, and the County were represented when the formula was put together. He notes that each of those bodies

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have their own governing bodies with an interest in the process. He says he understands the County representing the dependent special districts; however, he says he is trying to understand how totally independent special districts, particularly non-enterprise types, are recognized in the formula and not left out. He reiterates that in the earlier annexation to the City, he does not understand why the CSA 70 fire administrative monies went to the City versus the District.

Ms. McDonald discusses the negotiation process, explaining that the authority has been given to the County legislatively to negotiate on behalf of all special districts, irregardless of whether they are dependent or independent. She points out that the District is an independent district, but says it is operated by the Big Bear Lake City Council, so it did participate in the process to a degree. She explains the formula, stating that the special districts that were detached in the earlier annexation were identified as CSA 70, CSA 53 and its Improvement Zones A, B and C. She says CSA 53-B had a share of the 1% general tax levy, which was about 25.3% of the property tax revenue generated in the specific annexation area. She notes that the District's historic share is 15.73%. She reports that in the negotiation process, the County gave the full share of CSA 53-B's revenue to the District and then determined what share would go to the City, using CSA 70 monies. She explains that over time, CSA 70 has evolved as the funding mechanism for County Fire administration through its share of the 1% general levy. She says the process does not necessarily equate service by service. She points out that there are a number of cities, such as Ontario and Upland, who have their own fire protection services; and she says the whole share of the revenue is transferred from the existing special district providers to the city.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 10:32 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

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JIM BAGLEY, Chairman