

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

REGULAR MEETING

9:00 A.M.

NOVEMBER 16, 2005

PRESENT:

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

STAFF:

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

ABSENT:

COMMISSIONERS: **A. R. "Tony" Sedano, Alternate**

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

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

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

APPROVAL OF MINUTES FOR REGULAR MEETING OF OCTOBER 19, 2005

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

CONSENT ITEMS

LAFCO considers the items listed under its consent calendar. Vice Chairman Colven states that the consent calendar consists of: (1) approval of the Executive Officer's expense report; (2) approval of payments as reconciled for the month of October 2005 and noting cash receipts; and (3) one service contract. A Visa Justification for the Executive Officer's expense report, which Executive Officer Kathleen Rollings-McDonald reports was not a part of the Agenda Packets, has been provided to the Commission this morning for consideration. Staff reports for the reconciled payments and the service contract have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. The service contract proposal, which is summarized as: LAFCO SC#261-City of Loma Linda Irrevocable Agreement to Annex for Water and Sewer Service (APN 0292-131-79) has been

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

advertised as required by law through publication in The Sun and the Loma Linda City News, newspapers of general circulation in the area. In addition, individual mailed notice of the service contract was provided to affected and interested agencies, County departments and those agencies and individuals requesting mailed notice.

The staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled, noting the cash receipts, and take the following actions for the service contract: (1) certify that LAFCO SC#261 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) approve SC#261 authorizing the City of Loma Linda to extend water and sewer service outside its boundaries to APN 0292-131-79; and (3) adopt LAFCO Resolution No. 2901 setting forth the Commission's findings, determinations and approval of the agreement for service outside the City of Loma Linda's boundaries.

Vice Chairman Colven asks whether there is anyone present wishing to discuss any of the consent calendar items. There is no one.

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

(It is noted that Commissioner Williams arrives at 9:08 a.m.)

CONTINUED ITEMS

CONTINUED FROM OCTOBER 19, 2005 -- CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR TENTATIVE TRACT MAP NO. 16402, ZONE CHANGE NO. 391 AND ANNEXATION NO. 81, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2989; AND (2) LAFCO 2989 - CITY OF REDLANDS ANNEXATION NO. 81 – CONTINUE TO JANUARY 18, 2006

LAFCO Executive Officer Kathleen Rollings-McDonald presents opening remarks regarding Items 5 and 6 and presents the staff report providing responses to the following two questions that staff and Legal Counsel were requested to respond to: (1) whether an agreement can be reached regarding a contractual relationship between the County and the City of Redlands related to the continued provision of fire protection and law enforcement services by the County to the annexation areas; and (2) whether the City can limit the extension of these services outside its boundaries.

(It is noted that Chairman Biane arrives at 9:09 a.m. and assumes the Chair.)

Ms. McDonald states that a copy of Legal Counsel Clark Alsop's response to the questions is attached to the staff report. She says the short answer to the second question is that the City can limit the extension of its services and establish policies regarding how such services would be extended. She reports that Supervisor/Commissioner Hansberger initiated a meeting on November 7 among City of Redlands, County and LAFCO staff regarding the concept of a contractual relationship, primarily for police and fire response, and says there was agreement in general that the concept was worth reviewing. She says that today the Commission has received a copy of City Council Agenda Item No. E-3 and that yesterday the Council adopted a recommendation to authorize its staff to explore the feasibility of the City contracting for law enforcement and fire services in an area to be determined. Mr. Alsop notes that there is a court case that said it is an appropriate use of utilities as a tool to manage growth and that government officials can refuse to extend utility services so long as they do not do so for personal gain or in an arbitrary or discriminatory manner. He says that means the Commission must accept the City's policy in that respect.

Ms. McDonald also notes that the Commission has received this morning a number of additional letters from landowners and/or voters surrounding both proposal areas. She says that LAFCO Analyst Michael Tuerpe will present Item No. 5.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

LAFCO conducts a continued public hearing to consider a proposal submitted by the City of Redlands (hereinafter "the City") to annex approximately 9.43 acres, generally bordered by Madeira Avenue on the north, parcel lines on the east, a combination of Cedar Lane and parcel lines on the south, and parcel lines on the west. The annexation area is within the City's eastern sphere of influence, within the community of Mentone. This hearing is continued from October 19, 2005. Notice of the original hearing was advertised as required by law through publication in The Sun and Redlands Daily Facts, newspapers of general circulation in the area and individual mailed notice of that hearing was provided to landowners and registered voters 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.

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

Mr. Tuerpe presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. He briefly reviews the staff report presented last month, a copy of which is attached to this month's staff report. He says this hearing was continued from October 19 with the direction that staff return with additional information. He provides responses to those questions as follows: First, he reports that AKS & BEK Partners acquired the two parcels in 2002 and initiated the development application for Tentative Tract 16402. He says that on May 14, 2004, the two parcels were acquired by Fontana Wong Investments Inc. and Victoria Homes Inc., the applicants for LAFCO 2989. Second, he reports that the average police response time for the first nine months of this year was approximately 9 minutes and 32 seconds, but says that varied depending on the location of the responding patrol units, and that area specific response times are not available from the City. He reports that the County Sheriff's response time from the Yucaipa Station ranges from 10 minutes 41 seconds to 10 minutes 56 seconds. As outlined in the staff report and discussed by Ms. McDonald earlier, he says discussions were held on the possibilities of a contractual service relationship with the County following annexation by the City.

Mr. Tuerpe says that pursuant to Government Code Section 56885.5b, if the Commission conditions its approval, it may order that completion of LAFCO 2989 be held in abeyance for a period not to exceed six months. He says that staff recommendation is listed on pages one and two of the staff report and include that the Commission: (1) take the listed actions related to environmental review; (2) approve LAFCO 2989 with the condition that the completion be held in abeyance for a period not to exceed six months until receipt of a signed contract between the City and County for the provision of law enforcement and fire protection services by the County; (3) waive the protest proceedings; and (4) adopt Resolution No. 2899 setting forth the Commission's findings, determinations and conditions of approval.

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

Commissioner Colven asks whether the contract is subject to legal challenge. Counsel Alsop responds that someone could choose to challenge it, but says he has no opinion as to the result of such a challenge.

Commissioner Cox points out that on page 4 of the October 11 staff report it is indicated that discussions among all the entities, property owners and voters should take place to work toward more comprehensive annexation proposals in the future. She asks whether any discussions toward that end have taken place. Ms. McDonald reports that she met with the Mentone Chamber of Commerce to review LAFCO's position on out-of-agency contracts and annexations and she says there is dialogue going on with the City regarding annexation proposals. However, she says these discussions are in the very beginning stages.

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

John Jaquess, City Planner, says the City Council did meet yesterday and says a copy of the Council's action authorizing City staff to explore the feasibility of contracting for the provision of selected services, including police and fire, has been provided to the Commission. He notes, however, that the Council

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

wanted to indicate its desire to explore the feasibility of such a contract, as opposed to making a formal commitment. Mr. Jaquess says that staff has recommended conditional approval of this annexation and he says the City Council would prefer that this application be continued to January, rather than conditionally approved, to allow the City and County staff to meet and further discuss the service issues. He says that also applies to the next annexation, if LAFCO wants to apply the same condition. Mr. Jaquess says one of the property owners, Raul Madrid, is here today and asked him to indicate that the City boundaries extend out into this area and the City provides services there and he does not feel his request for services is unusual.

Mr. Madrid states that the issue has come up whether there is adequate service available in the outskirts of the City limits. He says he is contiguous to City limits; that the City has indicated it can serve the area; and he does not feel that when a property owner wants to annex he should be denied.

Cheryl Tubbs, a resident of Mentone, speaks in opposition to Items 5 and 6. She notes that she resides less than a half mile east of the annexation area for LAFCO 2990 and says she is opposed to any annexation by the City in the Mentone community, which she says is the position held by a number of residents, the Chamber of Commerce and the Mentone Area Community Association (MACA). She says that with what has come before the Commission in the past five years, since Measure U was passed, and with what is before the Commission today and the 40 plus more of these types of proposals pending for the City to provide water and sewer service to parcels in Mentone, combined they represent poor land use planning and piecemeal annexation. She asks that the Commission give the City the message that if it is interested in annexing its entire sphere, it should be in larger areas and not piecemeal annexations. Ms. Tubbs points out that in one of the Plans for Service the City indicated it has provided water and sewer service to the Mentone community for 80 years. She reads various portions of Counsel Alsop's Memorandum regarding the provision of services outside the City's boundaries. She discusses that Mentone has been provided service by the City for 80 years without annexation being required. Regarding the discussion in his memorandum related to "Existing Customers", she reads that a city must continue to furnish service to those whom they have previously served if the service can continue to be provided efficiently and economically; and she says the City of Redlands has a history of providing water and sewer service to Mentone. She notes that Mr. Alsop's memo concludes that "A city is under no obligation to provide services to areas beyond its jurisdictional boundaries, unless the city has taken on this responsibility through a separate action. She says the City's action is having established service areas for water and sewer service in Mentone. Ms. Tubbs asks that the Commission look at these and all the pending proposals to see whether it is fair to property owners in the County to have to annex to receive services that are already provided to the Mentone community.

Ernie Givens, President of the MACA, says they object to these annexations for those reasons discussed by Ms. Tubbs. He says it does not make sense why builders are allowed to buy acreage and turn them into housing tracts and apartments. He says the Senior Center to be built on Opal Avenue and Highway 38, right in the middle of Mentone proper, is having trouble getting sewer because of the tremendous cost and he asks what will it take to get sewer all the way out to the Church's proposed annexation. He asks whether the Mentone residents will be required to be attached to the sewer line. He says the MACA is happy with the County's Sheriff and fire protection services. He asks that the Commission deny the annexations and asks that all or none of Mentone be annexed.

Linda Arnold, a resident of Boulder Creek, speaks in opposition to piecemeal annexations. She says she is very pleased with the County's excellent services.

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

Commissioner Hansberger says this is a perplexing issue and that it is difficult to be fair to everyone. He says the City is the logical service provider but is somewhat physically remote for some services because of the nature of its infrastructure at this time. He says he believes something can be worked out as far as a contract for services but says additional discussion with the City is needed. He says Measure U has not been legally challenged at this point, but says that as far as water service, there is probably a fairly

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

firm position that Measure U does apply. However, he discusses that he has less confidence that Measure U applies for sewer service because the City's sewer treatment facilities were partly built with Federal grants. He says that the City signed documents when the grants were given indicating it would serve its entire service area defined by the treatment plan, which he says included all of the Mentone and Crafton areas. He says he believes it may be possible that Measure U can be overridden with respect to prior sewer agreements, but is not sure the same applies to water service. He discusses that he is deeply concerned about piecemeal annexations and unsuccessfully fought them in the 1970s. He says that although he does not want to continue this hearing, they have not yet arrived yet at a competent answer and need to conclude dialogues with the City. Commissioner Hansberger moves that this hearing be continued to January 18, 2006, seconded by Commissioner Nuaimi.

Commissioner Nuaimi says they are trying to facilitate development and property rights of those who want to develop their land. He says that last month they struggled with the lessons learned from other island areas and the discontinuity of service areas due to piecemeal annexations. He says that was one of the main reasons he could not support this annexation unless the service providers for the neighborhoods would be the same, because that is one of the biggest issues in the Fontana areas where the service boundaries go all over the place. He says last month they looked at how to get around Measure U, keep this the Mentone community, and allow the developer to move forward. Without litigation, he says the only way to do that is to allow annexation to occur, but ensure that service agreements are in place. He says the Commission is trying to make the best of a bad situation; that the developers must have water and sewer service and must annex to receive them.

Commissioner Pearson says Commissioner Nuaimi's remarks are very pertinent and that Fontana's efforts in trying to deal with issues similar with those being discussed are noteworthy. He says that years ago comments were made to the Mentone people who were complaining about annexations that they needed to take some action to protect their community, but he says nothing has taken place yet. He discusses that there are some alternatives that the Mentone community may want to look at and says that in the High Desert, the communities of Helendale and Pinon Hills/Phelan and Oak Hills are looking at the possible formation of Community Services Districts to protect their communities from being nibbled away. He says he agrees that there are no good answers for piecemeal annexations. He says he supports a continuance if it will help to clarify the position of the City and says it is worth exploring some of the issues Commissioner Hansberger brought up related to potential litigation against Measure U. He says they must look at how to deal with the growth taking place in the County; that they must try to make the best of a less than perfect situation; and that the motion is a suitable one.

Chairman Biane asks if there are any further comments or objections to the motion. There being none, the voice vote is as follows: Ayes: Biane, Colven, Cox, Hansberger, Nuaimi, Pearson, Williams. Noes. None. Abstain: None. Absent: None.

CONTINUED FROM OCTOBER 19, 2005 -- CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY CITY OF REDLANDS FOR CONDITIONAL USE PERMIT NO. 818, ZONE CHANGE NO. 402 AND ANNEXATION NO. 83, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2990; (2) REVIEW OF ADDENDUM PREPARED BY LAFCO ENVIRONMENTAL CONSULTANT TO ADDRESS CALTRANS RIGHT-OF-WAY AREA AS CEQA LEAD AGENCY FOR LAFCO 2990; AND (3) LAFCO 2990 - CITY OF REDLANDS ANNEXATION NO. 83 - EXPAND AND CONTINUE TO JANUARY 18, 2006

LAFCO conducts a continued public hearing to consider a proposal submitted by the City of Redlands (hereinafter referred to as "the City") to annex approximately 6.42 acres, generally located at the northwest corner of the intersection of Mentone Boulevard and Amethyst Street. The annexation area is within the City's eastern sphere of influence, within the community of Mentone. This hearing is continued from October 19, 2005. Notice of the original hearing was advertised as required by law through publication in The Sun and Redlands Daily Facts, newspapers of general circulation in the area and individual mailed notice of that hearing was provided to landowners and registered voters 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.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. He reviews the annexation area as outlined in the staff report presented last month, a copy of which is attached to this month's staff report. He says this hearing was continued from October 19 with the direction that staff return with additional information. He provides responses to those questions as follows: First, he reports that the property has been owned by the Amethyst Bible Church since October 8, 1999. He says the response times for the City Police and County Sheriff were previously discussed by Mr. Tuerpe. He reports that staff forwarded letters with a map and survey form to the three property owners of the four parcels north of this proposal requesting their position on annexation and he says only one property owner, who favored annexation, responded. He says Mr. Tuerpe and Ms. McDonald discussed earlier the meeting held on November 7 to discuss the possibilities of a contractual service relationship with the County following annexation by the City and he says that although there was agreement in general, the details of the contract must be ironed out.

Mr. Martinez says this annexation was submitted in response to the development of a church and, in order to receive water service, the area must be annexed to the City pursuant to the City's Municipal Code since it is contiguous to City boundaries. He says, however, that staff does not support the boundary configuration as submitted and the creation of a peninsula and believes that expanding the proposal to include the four parcels to the north provides for a more logical and efficient service boundary. He notes that the October 11 staff report outlined three other options: (1) denial of the application; (2) acceptance of the proposal as presented; and (3) approval with the condition that the City initiate annexation of the four parcels prior to completion of the annexation, which he says was staff's recommendation last month. He says staff recommendation is that the Commission expand LAFCO 2990 to include the four parcels northerly to Madeira Avenue and reports that the City indicated at the November 7 meeting that it will conduct the pre-zoning process in time for the January hearing, if the Commission expands the proposal.

Mr. Martinez notes that the Commission has been presented today with a letter from the Director of the County Land Use Services Department supporting the expansion and encouraging the City to work with the County Department of Public Works and Caltrans on the potential for realignment of Mentone Blvd. in response to Supervisor Hansberger's memo dated November 3, 2005, to the Public Works Department.

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

Pastor Steve Podolak, representing the Amethyst Bible Church congregation and Board of Directors, asks that the Commission approve the annexation as presented or contingent upon the expansion of the boundaries as discussed by staff. He says they have owned the property since 1999 and having been trying to develop it for the past two years. He says they are eager to be in their completed facility by June or July and that another delay or deferral will cause a significant change in their schedule. His reasons in favor of approval are: (1) the Church did not request to be annexed to the City and is happy to be a part of the County; but annexation was pushed on them by Measure U over which they have no control; (2) the Church has done what has been requested in order to get to this point in the development process; and (3) it does not seem fair or right that the Church should be held responsible for the annexation of other properties over which it has no say. He asks that the annexation process be expedited if at all possible.

David Higginson, the Architect, a Church member, and member of the Building Committee reemphasizes that the Church does not have the same concerns related to fire and police service as a residential development has and asks that the Commission consider that and allow the annexation to move forward. He says they are concerned about how a continuance will affect the planning and Conditional Use Permit processes in the City.

Commissioner Hansberger asks whether the Church will operate an educational facility or daycare operation. Mr. Higginson responds that they have no plans to run a Church school at this time. Commissioner Hansberger comments that if they had children on the site everyday and had a need for emergency services that would be an issue; but he says that is not the situation here. Commissioner

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

Colven asks whether Mr. Higginson has had any contact with the property owners to the north regarding the Church's intention. Mr. Higginson says hearings have been held and the Church has received copies of the opposition letters, but he says he has not talked with the neighbors about the project.

Commissioner Hansberger says there are some concerns about the road alignment in that area and he asks whether Mr. Higginson, as the architect, has taken a hard look at the site distances for ingress to and egress from the site. Mr. Higginson says they are building an interim facility and are providing all ingress and egress off of Amethyst Street at this time. He says they have located a secondary driveway at the southwest boundary of the property, which is the furthest away from the curve of the road. He says that in five to ten years they hope to build the main facility and are looking at whatever site lines they are asked to consider, especially on Highway 38. He says there is the potential for realignment and their civil engineer has been communicating with Caltrans and other agencies to look at those issues.

Commissioner Gonzales asks whether the one property owner who responded to the letter was the owner of the two parcels. Mr. Martinez says that property owner owned one parcel.

Commissioner Hansberger asks whether the mechanisms discussed last month that would allow the Church to proceed with its building permits while the County and City worked out details of the contract are in place. He says he does not see any land use problems with the Church but he is concerned about who will serve the area and how they will it. Mr. Martinez says there are no land use issues. He says the Commission can expand this proposal and continue the hearing to January or can conditionally approve the proposal, which will delay the project. He says if the City does not initiate annexation of the four parcels, the proposal will be terminated. Commissioner Hansberger responds that he does not think the City objects to initiating annexation of the additional parcels and says if the City initiates the annexation but it is not successful, its obligation has been fulfilled.

Mr. Nuaimi comments that the primary reason to continue the proposal is for expansion and the contract between the County and the City. Mr. Martinez says staff hopes that the contract will be ironed out by January. Commissioner Luellig asks whether staff informed the proponent that this type of annexation would be a problem and that they must square it off so that a peninsula would not be created. Ms. McDonald responds that the City is the proponent and says this issue has been discussed in the past for other annexations on Wabash Avenue, along with the issue of the piecemeal annexation approach. She says this had not been specifically discussed with the Church itself. Commissioner Luellig comments that staff has very clearly told the City of Barstow not to submit proposals with irregular boundaries but that it should talk to the property owners and try to square the annexation area off before putting down any money for the process. He says it seems like this annexation came forward with the knowledge that the Commission would say it is not acceptable. Ms. McDonald says that the dilemma unique to this situation is that the requirement for annexation has been adopted by referendum and the City cannot extend its services like it did prior to 1997. She says the City is trying to accommodate people without causing more consternation for the Mentone community. She says that along the periphery of the City's boundaries, these situations will be encountered.

Regarding the ability of the Church to move forwarding in processing its development, Ms. McDonald points out that last month Mr. Jaquess indicated that the approval processes can be handled through the City in the interim, but she says that in order to pull building permits, the Church must be in the City. She notes that the Commission has the option to approve this item as presented, but she says that staff is recommending an alternative due to the creation of a peninsula. Chairman Biane states that the same condition for a service agreement should be applied to both annexations, even though police and fire service is not an issue for the Church. Ms. McDonald explains that conditional approval means the annexation will be approved and move forward through the process, but the Certificate of Completion will be held until staff has been presented with a signed contract that specifies how the services will be handled.

Commissioner Cox comments that Mentone wants to continue to be a community but is held hostage by Measure U in the area of service provision. She says that it is poor government in her opinion not to serve the needs of a community that wishes to maintain its own identity. She says she would have a

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

hard time supporting annexation of just the one parcel and prefers that the proposal be expanded to include the other four parcels. She says she would love to see someone challenge Measure U and that Commissioner Hansberger's comment about the Federal funding for sewer service takes a notch out of Measure U. Commissioner Hansberger comments that Measure U was initiated by a citizens group and not the city. He says some of the intentions of the Measure were noble, but it solved one problem and created others. He says it has made things difficult for the Commission, the City and citizens; that it is not good government; but they have to live with and deal with it.

Commissioner Hansberger moves to approve staff recommendation, requiring a contract for police and fire protection services, and a requirement to initiate annexation of the four parcels. Ms. McDonald states that she wants it to be clear that his motion is to have the City initiate annexation of the four parcels as a separate application, rather than the Commission expanding this existing proposal. Legal Counsel Clark Alsop states that the staff recommendation is that the Commission expand this existing proposal now. Commissioner Hansberger states he will amend his motion to indicate that the Commission is expanding this proposal to include the four parcels. He says the service issues need to be solved and he will continue to meet with the City to see if they can be worked out. Commissioner Cox seconds the motion.

Commissioner Nuaimi points out that the expansion will delay the application because the area will now need to go through a formal protest process. Ms. McDonald says the consideration will be taken up in January and then will move forward for a protest hearing. She says that in the interim, there may be consent from the other property owners in the expansion area. Commissioner Nuaimi comments that the other properties have insufficient land values to terminate the proposal so the annexation will go forward. He says he gets the impression that this will prevent the Church from continuing its development activity since the annexation will be finalized in January rather than today. Ms. McDonald responds that the recommendation was that the Church's Certificate of Completion be delayed until receipt of a signed contract; so the area still would not be a part of the City if the annexation were approved today. Commissioner Hansberger discusses that it is his understanding that the City will process the Church's plans and specifications as if construction is to proceed; he says there is a great deal of work to be done and the Church will not be ready to trench or pour cement by January. He says there are some technical delays in the procedure but his understanding is that the Church will be allowed to proceed with its project. Commissioner Nuaimi discusses that he is not as concerned about a contract for service for the Church but is concerned about tying up the Church's ability to move forward; but he says if the City will continue to process the project, this will be a good opportunity to square off the boundaries since there is insufficient property value to terminate the annexation.

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

DISCUSSION ITEMS

Commissioners Biane, Hansberger and Gonzales announce that they have a conflict on Items 7A and 7B and leave the hearing at approximately 10:17 a.m. Vice Chairman Colven assumes the Chair.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2995; AND (2) LAFCO 2995 - SPHERE OF INFLUENCE REVIEW FOR CENTRAL VALLEY FIRE PROTECTION DISTRICT (EXPANSION) AND COUNTY SERVICE AREA 38 (REDUCTION) (LYTLE CREEK NORTH) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal to expand the sphere of influence of the Central Valley Fire Protection District (hereinafter referred to as "the CVFPD") by approximately 13.23+/- acres, with a corresponding reduction in the sphere of influence of County Service Area (CSA 38). The study area includes three parcels in the area generally known as Sycamore Flats, north of the new Glen Helen Parkway and east of the Lytle Creek Channel. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

agencies requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald shows the study area on maps on the overhead display and shows the area on an aerial map. She states that these parcels are part of the development project identified as the Lytle Creek North Planned Development Project, now known as the "Villages at Lytle Creek", (hereinafter referred to as "Lytle Creek North PDP"), and are intended to receive paramedic and structural fire protection services through CVFPD. Ms. McDonald summarizes the responses to the mandatory "factors of consideration" required by State law, as outlined in the staff report. Regarding present and planned land uses, she says the Commission has discussed the overall Lytle Creek North PDP a number of times and says this area is in the northern most extension of that project area. She says the current land use designation is Community Commercial and it is anticipated that the center parcel will house a future CVFPD station, which is a requirement of the development process and will be discussed during the next item. She notes that the existing land uses were assigned through the County's processing of Lytle Creek North PDP in October 2001. She discusses the second factor and says the current service provider, the San Bernardino County Consolidated Fire Agency, is a contractual relationship among the many fire agencies in the County. She says the CVFPD provides paramedic and structural fire protection services and that CSA 38 is only authorized to provide structural fire protection service. She says that presently the need for service is minimal since the area is vacant, but that will change as the development project, which anticipates 2,400 homes and a school site, moves forward. She says this sphere change must be processed to include this area within CVFPD's so that the companion annexation proposal can be processed. She discusses that there is currently no community of interest in the area, which has been known as the Sycamore Flats area primarily due to the location of the U.S. Forest Service Station. However, she says the area will become an economic community of interest through development of the larger project.

Ms. McDonald says that additional determinations outlined in the staff report include the following: (1) that the Commission's Environmental Consultant Tom Dodson and Associates has determined that the sphere amendment proposal is statutorily exempt from environmental review; (2) the area is legally uninhabited, with no voters; and (3) notice of the hearing was provided by publication and individual notice to landowners within the area and those within 700 feet surrounding the area, and no protest has been received. Ms. McDonald says the staff recommendation is that the Commission: (1) certify that LAFCO 2995 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) approve LAFCO 2995; and (3) adopt LAFCO Resolution No. 2902 reflecting the Commission's findings and determinations.

Vice Chairman Colven asks whether there is a projected time for construction of the new fire station. Ms. McDonald says it is outlined in the next application that there is a contractual relationship between the primary developers and the County Consolidated Fire Agency as to certain milestones requiring payment and construction. Vice Chairman Colven comments that generally when service transitions to another agency the staffing increases and he asks whether that has been considered. Ms. McDonald responds that CVFPD has a different staffing level than CSA 38. She says this area is primarily served out of the Devore Station which does not have paramedics assigned to it. She says the next item will outline changes in that staffing.

Commissioner Pearson asks whether the impact of the current pending County fire reorganization has any bearing on this proposal. Ms. McDonald says that whether service is transitioned to CSA 38 or CVFPD, both agencies will be considered in that reorganization. She notes, however, that the level of service anticipated through the development approval process is not commensurate with the service provided by CSA 38 so there is a need to transition to CVFPD.

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

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

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

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY COUNTY OF SAN BERNARDINO FOR LYTLE CREEK NORTH PLANNED DEVELOPMENT PROJECT (STATE CLEARINGHOUSE NO. 99051013), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2971; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2971 – REORGANIZATION TO INCLUDE WEST VALLEY WATER DISTRICT AND CENTRAL VALLEY FIRE PROTECTION DISTRICT ANNEXATIONS AND DETACHMENT FROM COUNTY SERVICE AREA 38 (LYTLE CREEK NORTH) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal submitted by the West Valley Water District (hereinafter referred to as “the District”) for a reorganization including annexation of approximately 672+/- acres to the District and the Central Valley Fire Protection District (hereinafter referred to as “CVFPD”, and detachment from County Service Area (CSA) 38. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice, and landowners pursuant to State law and Commission policy. There are no voters within the area or within 1,350 feet of the boundary.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald says the District originally submitted the proposal in October 2004 at the request of the primary landowner to address only water service. She says that through discussions with the property owner, the Special Districts Department and the County Fire Department, the proposal was expanded to include annexation to CVFPD and detachment from CSA 38 to accommodate the development project now known as the Villages at Lytle Creek (hereinafter referred to as “Lytle Creek North PDP”). She explains that the proposal includes 672 acres, 647 of which are the development project, with the other 25 acres related to the I-15 Corridor and roadways. She shows the location of the area on the map on the overhead display and on an aerial map. She discusses that the Commission reviewed this project under the unincorporated communities provisions of Cortese-Knox about five years ago when the County was reviewing the development project and the environmental impact report (EIR) and when it reviewed SC#243, the out-of-agency service contract that allowed the District to continue processing the Tract 15900 development, to assure water delivery while the annexation application was processed.

Ms. McDonald says that no problems have been identified with, or opposition expressed about, the boundaries as proposed. She says that the land use approvals for the Lytle Creek North PDP that have been processed through the County are outlined in the staff report and she says the tract developments are being processed. She discusses service issues, as outlined in the staff report, and says Condition #129 provides that the District is to be the water purveyor, which requires that annexation take place to assure water delivery to the project. She notes that sewer service will be provided through CSA 70 Improvement Zone GH. She discusses that there are a number of Conditions of Approval that relate to the provision of fire protection service and says the Plan for Service from the County Consolidated Fire Agency outlines requirements for funding for the construction of facilities, ongoing maintenance and operation of functions, responsibilities of the developer for the purchase of fire equipment and timing of the construction of necessary facilities. She says the contract indicates that funds will be paid to the County to augment service at the CSA 38 Station in Devore.

Ms. McDonald reports that during the circulation and review process, the City of Fontana submitted concerns related to the provision of services by CVFPD to the development since the City anticipates submitting its own fire reorganization proposal after the first of the year. She says a copy of the City's letter is attached to the staff report and that staff's responses are outlined in the staff report. Regarding the City's questions related to water service, Ms. McDonald says the District provided a written response to those questions, a copy of which is attached to the staff report.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

Ms. McDonald says that the Commission's Environmental Consultant Tom Dodson and Associates has presented the Commission with an environmental document indicating that the Commission should certify that it has reviewed and considered the environmental documents related to the County's Final EIR for the Lytle Creek North PDP. She says Mr. Dodson has also provided a Candidate Findings of Fact and Statement of Overriding Considerations for the Commission's consideration.

Ms. McDonald says the staff report identifies that there is 100% landowner consent and she notes that updated and corrected landowner consent forms have been provided to the Commission this morning. She reports that the Board of Supervisors yesterday adopted an item consenting to annexation of property owned in the name of either the County Flood Control District or CSA 70 Improvement Zone GH. She reports that the District and CVFPD have consented to waiving the protest proceedings. She notes that the map and legal for this proposal have not been signed off by the County Surveyor yet and says she failed to mention that the revised map and legal for the sphere expansion proposal have not been received yet. She says the issuance of the resolutions will be delayed until receipt of the certified maps and legal descriptions and says the property owners and Districts are aware of this. Ms. McDonald says the staff recommendation is outlined on pages one and two of the staff report and include that the Commission: (1) take the actions listed related to environmental review; (2) approve LAFCO 2971; (3) waive the protest proceedings; and (4) adopt LAFCO Resolution No. 2903 setting forth the Commission's findings, determinations and conditions of approval.

Tom Dodson states that the Statement of Overriding Considerations was prepared because, at this point in time, there is no water service agency in the area and authorizing the District to annex this area is a step in the chain that approves the ultimate project that approves the development of this site. He says the Statement of Overriding Considerations is a good summary of the issues and impacts contained in the environmental documents.

Commissioner Pearson comments that he finds the issue of mitigating the transportation concerns somewhat vague. Mr. Dodson responds by discussing what he calls an unusual section of the California Environmental Quality Act (CEQA), Section 15131, that he says allows a project to mitigate its contributions to cumulatively considerable impacts by paying its fair share. He says if this project, which is generating traffic along with other projects, had to build the actual circulation system improvements, the project would never go forward, so CEQA said it will make an assumption that if a project is offsetting its impacts by paying its fair share contributions, it has contributed to the solution and that is adequate. He says that so far, the fair share contribution is considered sufficient to mitigate impacts to a nonsignificant level.

Commissioner Nuaimi says he understands there is a single point of access and a secondary emergency vehicle access. He says that having been through a fire storm where there was a single exit out of a community of 1,400 homes and a backup occurred, he is concerned that a single point of access exists out of this masterplanned community of 2,400-2,500 homes. He asks how that gets mitigated, especially when that freeway network may be ten years down the road. Mr. Dodson says he understands there will be access along Glen Helen Parkway coming off the I-15 or 215 Freeways. He says the secondary emergency access area is to be at the south, down through the Sheriff's Facility, if a fire was coming from the north; and says that if the fire was coming from the south, there would be access onto the freeway. Mr. Dodson says the County has approved this project believing there was adequate provision for emergency access and the Commission is looking at the County's action and saying it concurs. Commissioner Nuaimi asks for clarification on the ramifications of circulation and evacuation.

Chris Warrick, representing Lytle Development Company, one of the property owners, states that the access issue has been discussed throughout the entire process related to the Lytle Creek North PDP. He says there are two primary points of access, the first from Glen Helen Parkway, relatively close to the Sierra offramp off the I-15 Freeway and the second off Glen Helen Parkway to the north, primarily accessed at the Glen Helen Parkway off-ramp off the I-15 Freeway. He says there is one secondary point of emergency access on the far east side corner of the property and says emergency access is only to the existing Sheriff's Facility.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

(It is noted that Commissioner Cox leaves the hearing at approximately 10:50 a.m.)

Commissioner Nuaimi asks Mr. Warrick what his understanding is related to the Sierra Avenue/I-15 interchange upgrades to accommodate the project. Mr. Warrick says the project has been mitigated to provide a minimum of four lanes through the underpass and is required to provide four lanes with a left turn lane. He says they are working with the Cities of Fontana and Rialto to upgrade the intersection at Riverside and Sierra Avenues. He says there has been no definite word from Caltrans as to when the regional improvements will be in place.

Commissioner Curatalo discusses that often in emergency situations people are left to themselves to seek safety and he says having a design that enables people to easily and quickly evacuate is important. He says he would like to hear from the Fire Department before making a decision. Ms. McDonald states that there is no one present from CVFPD.

Commissioner Luellig states that he understands the concerns that have been expressed but says he wonders whether this is the body where those concerns should be raised since the project is the County's responsibility and the County prepared the environmental documents. He says the Commission could ask the County to look at these issues because of the concerns expressed, but he does not think this is staff's responsibility. Ms. McDonald says the County Fire Department has experience in the mountain areas related to evacuation routes and developing evacuation plans and says she hopes that the same kind of community interest will be involved in this area for developing evacuation plans. She points out that the Commission is adopting a Statement of Overriding Considerations for this project; that one was also adopted in November of 2004 when the Commission considered SC#243; and that this is a carry-on of that project. Commissioner Pearson says his point is that the Commission should have assurances that there is a plan of action concerning these issues raised because of the tremendous changes that will be taking place in the fire service. Ms. McDonald discusses that the actual fire provision in this area will remain unchanged and that the County will remain the provider of the service. She says the proposal today will change fire service from CSA 38 that provides rural/suburban level of service to CVFPD.

Commissioner Nuaimi asks whether the City of Rialto could be the fire provider since this area is within its sphere of influence. Ms. McDonald says the City of Rialto could only provide fire service if the area were annexed to the City and she says the area is not contiguous to City boundaries. She says that although this area is within Rialto's sphere and has been included in its general plan requirements, the City has not expressed any concern regarding this annexation. Commissioner Nuaimi says the City of Fontana expressed concerns about the annexation to CVFPD with the proposed fire reorganization and the City trying to figure out what it is going to do with a subsidiary district. He says it was mentioned that interim services could be provided to this area through the CSA 38 Devore Station, including paramedic service, and he asks why the area cannot be left in CSA 38 until they figure out what will happen with the fire reorganization. He says the area could be annexed to the Water District but the annexation to CVFPD could wait. He says Fontana has a four-party fire agreement and he does not get the sense that there is a comparable level of agreement in place for this project. Ms. McDonald discusses the contract for the fire station construction as outlined in Attachment 3 of the staff report. She says the contract has been signed, but she is not sure about the actual finalization of the community facilities district and Special Districts staff is not present to respond.

Tom Dodson states that he wants the Commission to be sure it understands that the mitigation for fire protection is very clear in the document. He says a fire protection plan was required to be submitted and approved by the County. He says that fire protection, adequacy of water supply and adequacy of response, including design requirements to address wildland fire hazard issues, have been identified as being mitigated sufficiently by submittal and implementation of that plan.

Commissioner Nuaimi comments that there is a track record of concern regarding funds from certain communities being spread to provide fire protection services to other communities that may not be served, which is why the fire reorganization is happening, and he says this proposal adds another variable. He questions whether annexation to the CVFPD is necessary at this time, if annexation to the Water District could proceed and CSA 38 could provide paramedic service through the Devore Station as

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

an interim solution until the reorganization occurs. Ms. McDonald responds that CSA 38 is not authorized paramedic service, which is why annexation to the CVFPD is necessary. She explains that Phase I of the development project requires an increased level of service, which will be housed at the Devore Station and funded through annexation to CVFPD, which is authorized to provide paramedic service.

Commissioner Nuaimi points out that CVFPD did not provide paramedic service to the Fontana citizens until four years ago when Fontana participated through funding; so he says that paramedic service is not an entitlement that comes with fire protection services. Commissioner Curatalo asks what station will be second responder once the new station is fully manned and its personnel are out on a call.

Ms. McDonald says she assumes it would be the Devore Station, and the Muscoy Station, Rialto Station and probably a Fontana Station, and she says there is a City of San Bernardino Station further to the southeast.

Commissioner Pearson asks that staff keep in mind that as they get into the fire reorganization issue, these points must be clarified. Ms. McDonald responds that once the fire reorganization is circulated for review and comment and starts to come forward to the Commission, there will be multiple hearings to review the proposals.

Vice Chairman Colven opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing. Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Curatalo. Vice Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Pearson, Williams. Noes: Nuaimi. Abstain: Biane and Hansberger. Absent: Cox (Curatalo voting in her stead).

(It is noted that at 11:10 a.m. Commissioner Nuaimi leaves the hearing and Commissioners Biane, Hansberger and Gonzales return to the hearing. Chairman Biane resumes the Chair.

CONSIDERATION OF CONSULTANT FOR STUDY RELATED TO LAFCO 2919 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT – DECLINE TO HIRE CONSULTANT; CONFIRM COMMITTEE MEMBERSHIP TO INCLUDE REPRESENTATION FROM WESTERN MUNICIPAL WATER DISTRICT AND EXPAND TO INCLUDE CITY OF HIGHLAND

LAFCO conducts a public hearing to consider a request submitted by the San Bernardino Valley Water Conservation District (hereinafter referred to as “the SBVWCD” or “the District”) that the Commission consider hiring a consultant to assist the Committee formed by the Commission to prepare the study required for LAFCO 2919-Service Review and Sphere of Influence Update for SBVWCD. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation in the area. Individual mailed notice was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein. Ms. McDonald states that the District’s letter, a copy of which is attached to the staff report, outlines what the District believes the study should entail and that a consultant should be hired. She reports that the first Committee meeting was held on October 28 and that three questions were posed to the Committee by the Commission through its action at the September hearing. She says that also at that meeting the District’s letter was discussed and the general consensus of the representatives was that a consultant was not needed to perform this study; but, if the Commission chose to move in that direction, a majority of the Committee members would provide financial support for the payment of costs. Ms. McDonald states that staff does not believe a consultant is necessary to gather the information necessary for the study that is to be submitted in February and does not support initiating a Request for Proposal to hire a consultant. She notes that a letter was forwarded to the Commission on November 9 signed by multiple members of the Committee indicating their position that a consultant should not be hired because the expertise present on the Committee can provide the study that will answer the questions of the Commission.

Ms. McDonald says the actual composition of the Committee was also discussed at that meeting. She

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

reports that at the September hearing, the Commission approved staff recommendation No. 3 regarding the composition of the Committee. She says that included with the September staff report was a request from Western Municipal Water District (hereinafter referred to as "Western") asking to be included on the Committee since it has a stake in the Bunker Hill Basin and implementation of the judgment regarding water flows into Orange County. She reports that the Commission did not take a specific action to modify staff's recommendation and says staff requested Western to designate a member and alternate for the Committee. She says that at the Committee meeting the appropriateness of Western being part of the Committee was questioned and why the City of Highland was not included since it has concerns regarding the Wash Plan. She says that although the Committee took no position on expanding the membership, staff believes that the Committee, composed of water stakeholders, should include Western since it is a stakeholder. She points out that the East Valley Water District provides representation for the City of Highland regarding its water and sewer needs.

Ms. McDonald says the staff recommendation is that the Commission: (1) decline to hire a consultant to prepare the report required for presentation at the February 15, 2006 hearing; and (2) confirm the Committee membership to include representation by Western Municipal Water District and decline the request to expand the membership to include representatives of the City of Highland. She notes that a letter from the City of Highland City Council outlining that its interest in participating on this Committee relates to the Wash Plan, identified as Supplemental Correspondence for Agenda item #8, was provided in the Agenda packet.

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

Lawrence Libeu, General Manager of the District, states that he appreciates that the Commission established the Committee to review this issue and the action taken by Commissioner Hansberger to lay out three issues that should be looked at. He says if that is the only mission of the Committee, that is a very narrow mission, and says the District's letter outlines eleven specific items that it feels should be addressed. He says the District feels the questions in its letter will have to be answered now or at a later date. He says that although the Committee voted not to support hiring a consultant, if the Commission wishes to do so, some members of the Committee have indicated they would provide some financial participation and he says the District is also in a position to help finance the hiring of a consultant. He says this is a difficult arena because the Committee is comprised of a "for and against" side, with only two people against and about seven people for; and the District feels it is essential to find a third party to provide a non-advocacy position. He urges that the Commission consider hiring a consultant. As far as membership on the Committee, Mr. Libeu says the District is not opposed to Western being on the Committee, but he says the District encourages the consideration of allowing the City of Highland to also be on the Committee. He notes that the Committee members unanimously have indicated they have no objection to the City of Highland on the Committee.

David Cosgrove, General Counsel for the District, says he is present to answer any questions regarding the District's request.

Stacey Aldstadt, General Manager of the City of San Bernardino Municipal Water Department, a customer of the District, says her comments this morning represent the thoughts and opinions of the City of Redlands, Bear Valley Mutual Water Company, the City of Riverside, Western, and the San Bernardino Valley Municipal Water District (hereinafter referred to as "SBVMWD"). Ms. Aldstadt says the Commission has directed them, as stakeholders, many of whom are customers of the District, to meet and answer the questions posed by the Commission. She says the Committee is bringing forth a lot of collective wisdom and experience in this area; that they know what they are talking about; and that they know the District--and some members of the Committee used to work for the District. She discusses that if the Commission brings in an outside consultant, it will take time to find and hire one and give him the scope of work, and it will take a lot longer than February before the report is ready to be presented. She says the water community is in the middle of a lot of agreements and very complicated spreading arrangements and they need to know who will be there next year. She says they cannot afford the extra time it will take if a consultant is hired. She says that most important, the information the Commission is seeking to make its decision is readily available through the Committee and says the stakeholders are

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

more than capable and fully prepared to answer the questions posed. Ms. Aldstadt concurs with Mr. Libeu that the Committee has no objection to the City of Highland being on the Committee provided that Western is also permitted to be on the Committee.

Rick Hartmann, Community Development Director for the City of Highland, speaks on behalf of the City becoming a part of the Committee. Mr. Hartmann says the City is a tremendous stakeholder in the Wash Plan, and he says it was LAFCO's decision to make one of the items to be discussed by the Committee the preservation of that Wash Plan. He says that for many years various agencies have been working on a master habitat conservation plan for the Santa Ana Wash and they are now closer than ever to getting the needed cooperation among all the agencies as far as Environmental Impact Report/ Environmental Impact Statement, mining plans and other recreation components. He says the City Council has instructed its staff that the Wash Plan takes precedence over all other projects and it is very important that the City be a part of the Advisory Committee. He says that although the East Valley Water District is the City's water and sewer purveyor, it is not the purveyor of land use authority in the Wash. He says that since the Commission is looking at water issues, it should also look at the land use side. He asks that the Commission consider adding the City of Highland as a member of the Committee and says the City has no objection to Western being on the Committee.

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

Commissioner Hansberger says there are a lot of water purveyors and asks why Western should be added. Ms. McDonald responds that Western handles the water judgments related to the Bunker Hill Basin and maintenance of certain flows along with SBVMWD. Commissioner Hansberger says it seems to him that SBVMWD speaks for that agreement. Ms. Aldstadt says that both Western and SBVMWD act as the watermaster for the judgment. She explains, however that the City of Riverside is a very important party committed to this process and is extremely concerned and probably pays the most, or the second most, in pump taxes, and she says that City's interests are very much tied into Western's interests. She says she thinks most Committee members agree that separating those two is not a good idea. Commissioner Hansberger reiterates that there is already a spokesperson for the watermaster on the Committee. Ms. McDonald responds that both Districts represent the watermaster, but she says the City of Riverside, Riverside Gage Canal Company and other pumpers in that overall area have concerns and they are represented by Western. Commissioner Hansberger says he is not persuaded that SBVMWD cannot speak for Western, but he says he thinks the City of Highland's issues are different. He says the City's issues deal more with the Wash Plan and he urges that the City be added to bring to the Committee its perspective on the Plan. He says he has heard concern about adding Highland and not Western, and says that whatever the other Commissioners want, he is persuaded the City should be a member of the Committee.

Commissioner Luellig asks why staff recommended adding Western but not the City of Highland, based on the comment that the Committee indicated both could be brought on. Ms. McDonald explains that staff's response related to the requirement in the staff report that the members be the major water stakeholders. However, she says the if Committee and Commission feel that other members are appropriate, they can be added to the Committee.

Commissioner Hansberger discusses the letter dated September 28 from Cheryl Tubbs, President of the Board of Directors of the District. He says her letter outlines eleven questions the District believes the Committee should respond to. He discusses that he believes the only question in the District's letter potentially not covered by the three questions the Committee is currently discussing is No. 6—"Is there any incompatibility in having Muni administer both the Western Judgment and the Conservation District's traditional water recharge role, or in having Muni serve both as the importer of State Project Water and the party primarily controlling the native water for groundwater recharge?". He says he has no problem with the Committee discussing that additional question.

Commissioner Hansberger moves to: (1) approve staff recommendation No. 1 and decline to hire a consultant to prepare the report related to LAFCO 2919; (2) expand the membership of the Committee to

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

include the City of Highland; and (3) request that the Committee respond to question No. 6 in the District's September 28 letter. In response to Commissioner Luellig's request for clarification of the motion, Commissioner Hansberger says his motion was to confirm the membership of the Committee to include the City of Highland but not Western. He says he feels that Western's point of view is already adequately represented on the Committee by the SBVMWD. However, he says his position is that if Western is going to be added, then the City of Highland should be added. Chairman Biane states that he thinks there may be consensus for Commissioner Hansberger's motion if he includes that Western's membership on the Committee be confirmed. Commissioner Hansberger amends his motion to also include confirming Western Municipal Water District as a member on the Advisory Committee. Commissioner Luellig seconds the motion as amended.

Commissioner Curatalo discusses that with parties on the Committee having positions that are obviously opposing, he thinks it would benefit the overall objectivity of the discussion by having a truly independent consultant do the study. He says the District is a long-established government agency; that there have been no glaring difficulties identified for the District; and that the Commission is just looking at what makes sense regarding its future governance. He asks for opinions as to why a consultant should not be brought into the decision-making process. Chairman Biane says he is not willing to support hiring a consultant because of the time delay. Commissioner Luellig says the basic question is whether there is a duplication of service. He says the Commission has asked the Committee, whose members are the experts, to answer several questions. He says the Committee is not deciding who should take over or whether any District should be eliminated and says the Commission will decide that based on the answers provided by the Committee. Commissioner Curatalo says that adds some clarification, but he says that what the Commission receives will be from a Committee whose members are motivated for different reasons. He says that with the composition of the Committee, he thinks that the most honest effort to make an objective decision will be difficult and that a consultant will give back opinions. Ms. McDonald responds that the Committee will not be rendering opinions, but will be looking at factual information and presenting a study of that factual information to the Commission so that the Commission can draw its own conclusions related to the operation of the two Districts and any potential for consolidation. Commissioner Williams comments that the Commission has done that with other consolidation studies by sorting through factual information and then coming to a conclusion. She says a consultant would only present information. Ms. McDonald points out that the information the Commission receives will be gathered from individuals sitting on the Committee who are well versed in all aspects of the operations being discussed. She reports that the Committee has had two meetings and will meet again on December 5.

Chairman Biane asks if there are further questions. There are none and he asks if there are any objections to the amended motion. There being none, he calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Curatalo, Hansberger, Luellig, Pearson, Williams. Noes: None. Abstain: None. Absent: Cox (Curatalo voting in her stead) and Nuaimi (Luellig voting in his stead).

CONSIDERATION OF AMENDMENT OF RULE NO. 1, REGULAR MEETING DATE FOR THE COMMISSION – MAKE NO CHANGE IN REGULAR MEETING DATE

LAFCO considers a question raised at the September hearing as to the possibility of changing the Commission's normal hearing date due to conflicts with SANBAG activities and other routine commitments. 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 mailed notice 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 says that seven Commissioners reported they have conflicts in changing the hearing day and, based on the responses, staff is recommending that there be no change.

No action is required.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

**QUARTERLY FINANCIAL REPORT FOR PERIOD JULY 1, 2005 THROUGH SEPTEMBER 30, 2005 –
ACCEPT REPORT**

Executive Officer Kathleen Rollings-McDonald presents the staff report for the quarterly financial report for the period July 1 through September 30, 2005, a copy of which is on file in the LAFCO office and is made a part of the record by reference herein.

No action is required.

PENDING LEGISLATION

No pending legislation report is presented.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that City Members Diane Williams and Paul Luellig are going to be up for re-election and says that the City Selection Committee will open its consideration in January, with a decision in March. She reports that Special District Members Bob Colven and Jim Curatalo are also going to be up for re-election and she says staff will initiate the Special District Selection Committee process in January so that, hopefully, the members can be seated in May. She says staff will also start the process in January for the selection of the Public Member, since Commissioner Pearson's term also expires in May.

Ms. McDonald reports there will be no December hearing. She says the January 18 agenda will include annexations to the City of Upland and the Hi-Desert Water District. She says staff hoped to start the Apple Valley community service reviews but says all the Apple Valley agencies have not yet submitted their documents. She reports that staff is working with the Community Services Districts to address service issues. She reports that she met with the Mentone community to discuss annexation/out-of-agency service contract issues. She reports that she met with the Helendale Community Services District Taskforce and the Cities of Adelanto and Victorville who objected to the original proposed boundaries. She says they are negotiating a means to try to address everyone's concerns. She reports that the amended and corrected materials have been received from the County Fire Department for the fire reorganization and says that process will be started after the first of the year.

COMMISSIONER COMMENTS

There are no comments.

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 11:45 A.M.**

ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF NOVEMBER 16, 2005**

PAUL BIANE, Chairman