

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

**REGULAR MEETING**

**9:00 A.M.**

**NOVEMBER 19, 2003**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Gerald W. Smith, Chairman</b>	<b>Richard P. Pearson</b>
	<b>Jim Bagley, Vice Chairman</b>	<b>Bill Postmus</b>
	<b>Paul Biane</b>	<b>A.R. "Tony" Sedano, Alternate</b>
	<b>Bob Colven</b>	<b>Diane Williams</b>
	<b>Neal Hertzmann, Alternate</b>	

**STAFF:**                   **Kathleen Rollings-McDonald, Executive Officer**  
                                 **Clark H. Alsop, Legal Counsel**  
                                 **Jeffrey Goldfarb, Special Legal Counsel**  
                                 **Debby Chamberlin, Clerk to the Commission**

**ABSENT:**

**COMMISSIONERS:**   **James V. Curatalo, Alternate**  
                                 **Dennis Hansberger, Alternate**

**REGULAR SESSION - CALL TO ORDER - 9:05 A.M.**

Chairman Smith calls the regular session of the Local Agency Formation Commission to order and 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.

Chairman Smith congratulates Commissioners Colven and Curatalo on their reelection to their District Boards.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF OCTOBER 15, 2003**

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

**CONSENT ITEMS**

LAFCO considers the items listed under its consent calendar, which Chairman Smith states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the month of October 2003 and noting of cash receipts. A Travel Claim and Visa Justification for the Executive Officer's expense report, and a staff report for the reconciled payments, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. Staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled for the month of October 2003 and note the cash receipts.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

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

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

**DISCUSSION ITEMS**

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2900; AND (2) LAFCO 2900 - SERVICE REVIEW AND SPHERE OF INFLUENCE AMENDMENT (EXPANSION) FOR WEST VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT - APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a service review and sphere of influence amendment (expansion) for the West Valley Mosquito and Vector Control District (hereinafter referred to as "the District"). Notice of this hearing has been advertised as required by law and pursuant to Commission policy through publication of a one-eighth page display ad in The Sun, Inland Valley Daily Bulletin, Chino Champion and Los Angeles Daily 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 says this proposal was originally initiated by the Commission in January 2002 in response to State mandates requiring service reviews and sphere of influence updates for all cities and special districts on a rotating five-year schedule. She reports that the District indicated it wished to address the expansion of its sphere and requested deferral of its consideration. She says for several months the District worked with the Cities of Upland, Montclair, Ontario and Rancho Cucamonga and the County Vector Control Program on the boundaries of an application to be presented to the Commission. She notes that at the March 2003 Commission hearing, concern was raised by the County's Vector Control Division about the inclusion of the City of Upland within the District's sphere. She reports that concern has been resolved and says Upland has been omitted from the application. On the map displayed, she shows the proposed sphere expansion area, which includes the balance of the City of Montclair and its sphere, the balance of the City of Ontario, and all of the City of Rancho Cucamonga and its sphere. She also points out the County Vector Control Program's area on a display map. She states that the staff report contains an outline of what a mosquito and vector control district is, the services currently provided by the existing District, and the funding mechanisms through the benefit assessments of the District and the County.

Ms. McDonald says that the purpose of the District's sphere expansion is to include the areas in which the District currently provides its services through a contractual relationship. She notes that the staff report contains the factors of consideration for the sphere expansion, as well as a District profile sheet. She says the staff recommendation is listed on page one of the staff report and includes: (1) determining that LAFCO 2900 is statutorily exempt from environmental review; (2) making the findings related to a service review and factors of consideration; (3) approving the sphere of influence expansion for the District and affirming the balance of the District's sphere as presently configured; and (4) adopting LAFCO Resolution No. 2792 setting forth the Commission's findings and determinations.

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

Commissioner Pearson moves approval of staff recommendation, seconded by Commissioner Postmus. Chairman Smith call for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

**CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION PREPARED BY CITY OF FONTANA FOR ANNEXATION #03-001 (CITY OF FONTANA ANNEXATION NO. 154), ZONE CHANGE #03-006 (PREZONING) AND TENTATIVE TRACT MAP #03-007 AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2946; AND (2) LAFCO 2946 - CITY OF FONTANA ANNEXATION NO. 154 - 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 20 acres, generally located north of Miller Avenue, west of Maple Avenue and south and east of parcel lines that form the City boundary. 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 points out on the display map that the proposal area is surrounded on two sides by the City of Fontana and on the other side by the City of Rialto and a small unincorporated area on the south. She reports that the area is currently a combination of vacant land, scattered residential and an existing 36-lot subdivision built in the County. She says the City rezoned the area and has approved a Tentative Tract Map for a 32-lot subdivision for single-family residential uses on 8.3 acres. She discusses the service delivery, as summarized in the staff report and outlined in the City's Plan for Service attached to the staff report. She notes that the Special Districts Department has asked that, in order to accommodate the transfer of responsibility for streetlighting facilities to a city, there be a condition of approval transferring the maintenance and operation of those facilities to the City. She says that condition has been included in the draft resolution.

Ms. McDonald states that staff has requested clarification of the County's new policy, adopted September 30, 2003, which indicates that a minimum of 7% of the property tax revenues collected from an annexed area will be transferred to the annexing city. She points out that the negotiations for this proposal transferred 5.56% of the property tax revenues to the City, rather than 7%. She discusses a chart provided on an overhead display that shows what the City's share for this proposal would have been under the historic property tax sharing formula, what the City's share is based on the new formula, as currently implemented, and what the City's share would have been based on staff's understanding of the formula adopted on September 30. She says she questioned the County to be sure she understood the policy because other cities are proposing annexations of a large magnitude and staff thought from the information provided that the full 7% would be transferred. She says clarification has not been received to date, but she points out that the County and City have agreed on the amount to be transferred in this case. She says staff will try to resolve these questions for future annexations.

Ms. McDonald reports that the Commission's Environmental Consultant Tom Dodson has reviewed the environmental assessment conducted by the City and determined that the City documents are adequate for the Commission's use as a CEQA responsible agency. She says the necessary actions to be taken related to the environmental review, as well as the findings required by State law and Commission policy, are listed on page five of the staff report. Ms. McDonald says the staff recommendation is listed on page one of the staff report and include that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment for this proposal and take the actions listed on page five of the staff report; (2) approve LAFCO 2946 with the standard conditions and the additional condition related to the transfer of responsibility for payment of streetlighting charges from CSA SL-1 to the City for the poles listed in the staff report; and (3) adopt LAFCO Resolution No. 2790 setting forth the Commission's findings, determinations and standard conditions of approval.

Commissioner Pearson asks whether the issue of the County implementing the transfer of property tax revenue in a manner different than LAFCO staff's understanding of the policy will cause turmoil for future annexations. Ms. McDonald responds that there needs to be a more clear definition of the policy

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

declaration since some people, including LAFCO staff, assumed a flat 7% would be transferred, while others thought 7% became the calculation factor.

Commissioners Postmus and Biane state they were not aware there were any questions about the policy. Commissioner Postmus asks Ms. McDonald who she has been working with regarding the policy. Ms. McDonald responds that she has been talking with Wayne Thies and Tom Forrester. Commissioner Postmus says the policy is clear to the Board of Supervisors but may not be to County staff. He says this will be clarified.

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

Cecilia Lopez-Henderson, Senior Administrative Analyst for the City, speaks in support of the staff recommendation. Ms. Henderson reports that the City adopted its General Plan last month and is moving forward on the development code and zoning ordinance that include the City's sphere of influence. She says that after the first of the year, the City will be bringing in more annexations based on its new General Plan.

Commissioner Pearson points out what he believes to be a clerical error in the initial study on page 15, under VIII, Hazards and Hazardous Materials, subsection e). He says it indicates that the project area is located northwest of and within one mile of the Rialto Airport, and he says the area appears to be south or southwest of the Airport. Ms. Henderson responds that he is correct.

Commissioner Bagley comments that there has been talk in the past about the City consolidating its annexations and he asks whether that is part of the City's General Plan review so that it will not be doing these small annexations. Ms. Henderson says that the City has a two part annexation program. She explains that the short-term program is to respond to individual requests for annexation as they come in, but she says the Council is also looking toward having reorganizations to include several areas. Commissioner Bagley comments that in looking at the displayed map, there is a general area of the City's sphere that logically should be annexed as a whole, rather than doing annexations piece by piece. Ms. Henderson responds that the City is looking toward those ends, but she points out that there have been a sufficient number of protests to annexation on the east end of the City, which is why they have been looking at smaller areas. She adds that as development occurs, the City is looking to expand the landowner-initiated proposals to bring in more areas. Commissioner Bagley says that when he looks at the cost for an applicant to initiate an annexation, he would prefer to see the City initiate annexation since the destiny of the area is to be in the City.

Commissioner Pearson notes that in the initial study on page 22, under General Plan, Noise Element, subsection e), it is indicated that the project is located within one mile of a public airport but not within an airport land use plan. He says he thought that the area of concern for an airport land use plan was bigger than what is being used here. Ms. Henderson says she will check that out.

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

Commissioner Bagley moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Smith call for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

Commissioner Pearson asks about clarification of the property tax revenue policy. Commissioner Biane states that is a County administrative function and is between the County and the City. Ms. McDonald states the County and City can correct that amount, if they wish, after the annexation has taken place.

**CONFIRMATION OF EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO  
SC#212 - SALE OF WASTEWATER CAPACITY BY CITY OF COLTON - APPROVE STAFF  
RECOMMENDATION**

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

It is noted that Legal Counsel Clark Alsop leaves the hearing at 9:25 a.m., as his law firm, Best Best & Krieger, also represents the City of Colton on unrelated matters. The Commission is represented for this item by Special Counsel Jeffrey Goldfarb of the law firm of Rutan & Tucker.

LAFCO conducts a public hearing to consider a request submitted by the City of Colton (hereinafter referred to as "the City") that the Commission concur in the City's determination that the potential sale of wastewater treatment capacity within the City's sewer treatment plant is exempt from the provisions of Government Code Section 56133. Notice of this hearing has been advertised as required by law through publication in The Sun and the Colton Courier 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 announces that Mr. Goldfarb is here today as Special Counsel on this item. Ms. 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. She says the City's letter, a copy of which is attached to the staff report, outlines that it is proposing to enter into an agreement to reserve capacity in its wastewater treatment facility to accept and treat wastewater from the Highgrove community in the County of Riverside, primarily in the Spring Mountain Ranch and Springbrook Estates projects. She discusses the three positions the City believes support its contention that this reservation of capacity is exempt from LAFCO review. She says the first assertion is that "Reserving wastewater capacity in City's wastewater treatment facility does not constitute a 'service' outside the City boundary." She says staff agrees with this position, as outlined in the staff report, because staff believes this is not an extension of service outside the jurisdictional boundaries of the City. She says the second assertion is that "The statutory exclusion from LAFCO jurisdiction for 'Nonpotable Water' applies to the proposed distribution system between Spring Mountain and the City." She says staff disagrees with this assertion. She explains that there is no definition in the statute of "nonpotable or nontreated water" and says staff does not believe that "nonpotable or nontreated water" is the equivalent of effluent or wastewater and, on that basis, recommends that the Commission not accept that finding. Ms. McDonald says the third assertion is that "Alternatively, Riverside Highland Water Company is a private company and thus is not subject to LAFCO authority." As outlined in the staff report, she discusses that the question is whether or not the City, which is under the jurisdiction of the Commission for the purposes of Government Code Section 56133, is providing service outside its boundaries. She reiterates that staff does not believe that the reservation of capacity is an extension of service.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) confirm that LAFCO SC#212 is exempt from the provisions of Government Code Section 56133; and (2) determine that the City shall indemnify, defend and hold harmless the Commission from any legal action arising out of this action. She notes that Riverside LAFCO will consider this same matter tomorrow and says Riverside LAFCO is recommending the same action to confirm an exemption.

Commissioner Colven asks who retains ownership of the water and whether the City is free to treat and sell the water as recycled. Ms. McDonald responds that she does not know, but says possibly Robert Reiter, General Manager of the San Bernardino Valley Municipal Water District, who is present today, can answer that question. She says the treatment that typically is handled by the Colton Plant is a regional operation.

Chairman Smith 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 Biane moves approval of staff recommendation, seconded by Commissioner Postmus. Chairman Smith call for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

(It is noted that Legal Counsel Alsop returns to the hearing and Special Counsel Goldfarb leaves the hearing at 9:32 a.m.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2916; AND (2) LAFCO 2916 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE UPDATE PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT - APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the San Bernardino Valley Municipal Water District (hereinafter referred to as "the District"). 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 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 states that the staff report contains information regarding the District's current service provision, the functions it is authorized to do, an outline of what a municipal water district does and what it is allowed to do, and a District profile summary sheet. She points out the District's sphere boundaries on the display map and says the staff report contains maps that show the relationship of this boundary to the cities and water retail agencies within it, none of which have expressed any concerns with the sphere designation. She says the only issue on this sphere to discuss relates to a County Boundary Exchange within the Agua Mansa area recently approved by the Boards of Supervisors of San Bernardino and Riverside Counties, to be effective December 1, 2003. She recommends that the Commission acknowledge that exchange in this update, which will place approximately eight acres into the District's sphere within San Bernardino County from Riverside County, and transfer approximately four acres to Riverside from San Bernardino.

Ms. McDonald says that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2916 is statutorily exempt from environmental review; (2) make the findings related to a service review required by Government Code Section 56430; determine that the District's existing sphere within San Bernardino County should be changed to accommodate the eight acres transferred to San Bernardino County through the County Boundary Exchange within the Agua Mansa area to be finalized as of December 1, 2003; and determine that the balance of the District's sphere should be affirmed as presently configured; (3) request that Riverside LAFCO address the County Boundary Exchange as it relates to the District's sphere within Riverside County; and (4) adopt LAFCO Resolution No. 2791 setting forth the Commission's findings and determinations on this issue. She thanks and commends the District for its thorough and comprehensive job of providing the information for the review.

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

Robert Reiter, General Manager and Chief Engineer of the District, says the cooperation works both ways and that with Ms. McDonald's help, the District was able to provide the information the Commission needed. In response to Commissioner Colven's question earlier, Mr. Reiter says that the City of Colton, in most cases, technically owns the water until it abandons it to the stream. He says the City has an obligation under the 1969 settlement to provide 2,500 acre feet of water per year to the river for the Orange County settlement and says the City can do whatever it wants to with anything in excess of that.

Chairman Smith asks if there is anyone else 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 Postmus. Chairman Smith call for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

(It is noted that Commissioner Postmus leaves the hearing at 9:40 a.m.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2921; AND (2) LAFCO 2921 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE UPDATE PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR CITY OF RIALTO - APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of Rialto (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Rialto Record, 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 shows the boundaries of the City's sphere on the display map, noting that its southern sphere area is the community known as Bloomington, which is defined by the boundaries of the Bloomington Park and Recreation District. She notes that she had hoped that the service reviews for that Park District and CSA SL-1 could be conducted with this City's review, however, she says those agencies responses were not received in time. She says the City is not proposing any changes to its sphere except to acknowledge the County Boundary Exchange within the Agua Mansa area recently approved by both the San Bernardino and Riverside County Boards of Supervisors. She says Rialto is a full service City and that the staff report contains information regarding the services it provides outside its boundaries by contract, as well as an outline of the agencies which overlay the City and its sphere.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2921 is statutorily exempt from environmental review; (2) make the findings related to a service review required by Government Code Section 56430; determine that the City's existing sphere should be changed to accommodate the approximately eight acres to be transferred to, and the approximately four acres to be removed from, San Bernardino County through the County Boundary Exchange within the Agua Mansa area to be finalized as of December 1, 2003; and determine that the balance of the City's sphere should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2793 setting forth the Commission's findings and determinations on this issue.

Commissioner Pearson asks whether the Commission will have to go through this same process for each one of the agencies overlaying the City and its sphere affected by this County Boundary Exchange in the Agua Mansa area. Ms. McDonald states that the Commission will have to acknowledge the County Boundary Exchange and sphere determinations for all the agencies in that area.

Chairman Smith opens the public 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 Biane. Chairman Smith call for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Smith, Williams. Noes: None. Abstain: None. Absent: Postmus.

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2940; AND (2) LAFCO 2940 - SERVICE REVIEW PURSUANT TO GOVERNMENT CODE SECTION 56430 AND SPHERE OF INFLUENCE UPDATE PURSUANT TO GOVERNMENT CODE SECTION 56425 FOR RUBIDOUX COMMUNITY SERVICES DISTRICT - APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the Rubidoux Community Services District (hereinafter referred to as "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

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 shows the sphere boundaries on the display map, stating that in 1989 the District's sphere was expanded in San Bernardino County to serve development in the Agua Mansa area. She says this is a routine, non-controversial sphere affirmation and update. She says attached to the staff report are a map and summary profile of the District and a survey response. She explains that this is an independent District, primarily in Riverside County, and that Riverside LAFCO determines the services the District is authorized to provide. She says this Commission acknowledges the services the District is authorized to provide in this County, which are limited to those four listed in the staff report. She says affirmation of the County Boundary Exchange would be appropriate, but says the area being exchanged is already within the boundaries of the District.

Ms. McDonald states that the staff recommendation is listed on page one of the staff report and includes that the Commission: (1) determine that LAFCO 2940 is statutorily exempt from environmental review; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the District's existing sphere within San Bernardino County should not be changed; and (3) adopt LAFCO Resolution No. 2794 setting forth the Commission's findings and determinations on this issue.

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

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

**CONSIDERATION OF STAFF REORGANIZATION AND RELATED TERMS OF EMPLOYMENT AMENDMENTS - APPROVE STAFF RECOMMENDATION RELATED TO LAFCO ANALYST POSITION; DEFER CONSIDERATION OF STAFF RECOMMENDATION FOR OTHER JOB DESCRIPTIONS**

LAFCO conducts a public hearing to consider a staff reorganization and related Terms of Employment amendments. 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 and County departments.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that upon her appointment as Executive Officer, she began to evaluate the tasks necessary to fill the Deputy Executive Officer position, which required that she develop a job description for that position and evaluate the job duties for all positions in the office. She says she evaluated the roles of the staff members as they relate to the implementation of AB 2838, which has changed the responsibilities of the various positions.

(It is noted that Commissioner Postmus returns to the hearing at 9:45 a.m.)

Ms. McDonald says that as a result of this evaluation, she is proposing a staff reorganization to acknowledge those changes. The proposed changes, which are outlined in the staff report, are summarized as: (1) retain the Deputy Executive Officer position as vacant for the present time; (2) reinstate the LAFCO Analyst position at Salary Range 56, accept the proposed job description, and tie future increases to the County's Administrative Analyst I position; (3) change the title of the Clerk to the Commission position, adding in the designation as Office Manager; adjust the salary range from Range

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

49 to Range 55, placing the incumbent at Step 8; and tie future increases to the Chief Deputy Clerk of the Board of Supervisors position; and (4) change the title of the LAFCO Secretary position to Deputy Clerk to the Commission; adjust the salary range from Range 37 to Range 42, placing the incumbent at Step 9; and tie future increases to the Executive Secretary II position. Ms. McDonald notes that there has never been a job description for the Executive Officer position and says she has proposed one, a copy of which is attached to the staff report, along with job descriptions for the other staff positions, except for the Deputy Executive Officer, which will be provided at a later date. She discusses the financial effects of these proposed changes, which are outlined in the staff report. She points out that the table on page four of the staff report identifies that the difference between the current structure and the proposed changes anticipated for Fiscal Year 2004/05 is an overall increase of \$886.

Ms. McDonald states that the staff recommendation is listed on pages one and two of the staff report and includes those changes she has outlined and adoption of Resolution No. 2789 amending the Terms of Employment for LAFCO Employees to reflect the adopted staff restructuring changes.

Commissioner Sedano says the staff report is excellent. He says that, while he is biased, he does not think the individual currently in the Clerk's position, who is proposed to also become the Office Manager, should earn less than the Analyst. He says he hopes that the other Commissioners feel the same way. Ms. McDonald explains that in evaluating the positions, she tried to compare them with other LAFCOs in the southern region with comparable activity levels and staff structures. She says the proposed salary levels were established using research obtained through a survey and review conducted by a personnel consultant hired by Orange County LAFCO.

Commissioner Biane comments that the staff report makes a lot of references to comparing the pay for the job descriptions to the County positions. He asks what dialogue Ms. McDonald has had with the County Human Resources Department in doing her analysis. Ms. McDonald responds that a number of years ago, the Commission's Terms of Employment tied LAFCO positions to County exempt positions for future pay adjustments. She says Human Resources was not asked for an updated review. She says the Analyst position is proposed to be added and tied for future salary adjustments to the County's Analyst I classification, as it had been before it was deleted. She says the Clerk to the Commission was tied to the Chief Deputy Clerk of the Board of Supervisors, noting that the Chief Deputy position is paid at a much higher range due to the complexity of the position and a large staff. In response to inquiry of Commissioner Biane regarding the County Planning staff member currently working for LAFCO, Ms. McDonald explains that Sam Martinez of the Land Use Services Department has been working two days a week since she was appointed Acting Executive Officer to help with processing environmental review. She points out that the LAFCO Analyst position requires budgetary experience, governmental structure experience and development-related experience. Commissioner Biane discusses that he does not feel staff will get the level of competence it is looking for at an Analyst I level. Ms. McDonald responds that her point in hiring at that level was so that she could train that person how to research issues and write a staff report and someday take her place. Commissioner Biane says he would be more comfortable if the County's Human Resources Department could look at these reclassifications since the LAFCO positions are tied to County job descriptions. He says that reclassifications are the most sensitive items coming before the Board of Supervisors all the time. Ms. McDonald discusses that the Commission can eliminate the ties to County positions, since they only relate to cost-of-living changes. She says, however, that she believes the job descriptions accurately reflect what all the positions do.

In reference to comments of Commissioner Pearson, Ms. McDonald explains that she and Cecilia Lopez-Henderson were LAFCO Analysts at the same time, at the same salary level. She says she was appointed Deputy Executive Officer after Ms. Henderson accepted a position with the City of Fontana and that Ms. Henderson's former LAFCO Analyst position was then eliminated.

Commissioner Smith asks how the Executive Officer has been evaluated in the past for raises without a job description. Ms. McDonald responds that a survey form was randomly sent to the Commissioners with a questionnaire to be filled out evaluating Mr. Roddy's job performance. She notes that the only raises Mr. Roddy ever received were the cost-of-living raises.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

Commissioner Hertzmann comments that he thinks removing the tie to County positions would be a good idea. He says the County positions could be reviewed and the LAFCO positions could stay in step with them, but not be directly tied to them. He comments that the job description for the Executive Officer indicates "Must have experience in the management of Boards and Commissions", and he says most boards and commissions do not think they are being "managed". He suggests changing that wording to something like "must have experience in working with...." He also says the job description for Analyst should not include reference to "an excellent benefit package".

Commissioner Williams asks what the time frame for hiring the Analyst is and how the vacancy will be advertised. Ms. McDonald she hopes to begin the advertising in December. She says it will be advertised in The Sun and the Inland Valley Daily Bulletin and on the internet; that it will go out on the CALAFCO e-mail system, and to all cities and districts in this County for posting. Commissioner Williams asks if she sees a need in the near future for a Deputy Executive Officer. Ms. McDonald responds that she does not see that need for the near future. She explains that she wanted to leave that position vacant, rather than removing it, so that if the Commission wanted to fill that position in the future, it would not be necessary to go back through the entire reinstatement process.

Commissioner Postmus says he concurs with Commissioner Biane that this should be reviewed by the Human Resources Department. He says that, with no disrespect to LAFCO staff, he has seen that the County has an art of manipulating the personnel change process by trying to push through reclassifications. He says the Board members learned how that was being done and says it can no longer be done that way. He says these proposed changes look fairly good to him, but he feels it would be helpful to get an objective opinion from the Human Resources Department which specializes in this type of thing.

Commissioner Pearson says he would recommend that a review by the Human Resources Department take place; however, he discusses that they must keep a timetable in mind, noting that if they wait to approve the Analyst position, some good opportunities may be missed. Ms. McDonald suggests that the Commission could approve the Analyst position today and defer the balance of the staff recommendation for further input. She points out that there are still some residual personnel-related issues and problems with the Terms of Employment and personnel policies that came out of discussions with Bill Floyd of Best Best & Krieger. She says Mr. Floyd is available to do a personnel study but says there are also other human resource consultants who charge less money and are as qualified as Mr. Floyd. She says a package for the Commission to review in January could be put together for the various personnel issues, as well as the job descriptions for the other staff positions.

Commissioner Sedano asks whether Legal Counsel Clark Alsop has any comments. Mr. Alsop responds that Orange County LAFCO contracted with a human resources consultant to look at its whole operation, which he says is the option Ms. McDonald has suggested. He explains that if the Commission wants to proceed with the Analyst position today, it will have to add the position, designate the salary range, and approve the job description, or staff cannot pursue filling that position. He says if the Commission is comfortable with doing that, it can defer the other items and ask Ms. McDonald to come back with a package in January to address the other personnel issues. Discussion follows about specifying the salary range for the Analyst. Ms. McDonald points out that a human resources review will necessitate that each job performed be looked at and then a recommendation be made to the Commission. She asks whether the Commission wants the review to be done by the County Human Resources Department or an outside contractor. Commissioner Biane comments that they might be able to get the County's Human Resources people to do a review without any additional cost to LAFCO. Ms. McDonald responds that has not been her experience with the County.

Commissioner Hertzmann asks whether the staff affected will still receive the same pay, without this action. Ms. McDonald explains that the special compensation the Clerk and Secretary were receiving ended in October. Commissioner Biane points out that as he reads the staff report, the Clerk would be receiving a 15% raise within a twelve month period, which he says is a big number and why he wants this to be looked at. Ms. McDonald says that placement of the two positions at the recommended salary ranges would permanently provide the Clerk and Secretary with the 7½% special compensation they had

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

been receiving. She explains how the step increases work until the positions are "topped out". Commissioner Biane comments that in the County there are people who "top out" and then are not motivated to do exemplary work. He says he is not saying that will happen here, but says that is what is wrong with the County's system and is a concern. Ms. McDonald points out that the LAFCO employees have been "topped out" for eight years. She asks whether the Commission wants the County or an outside contractor to do the job reviews and whether it wants those job reviews to coincide with the review of the larger personnel-related issues.

Commissioner Biane moves to: (1) approve the reinstatement of the LAFCO Analyst position; (2) approve the job description and salary range recommended by staff and authorize the advertisement of the position; and (3) request that staff come back with a proposal on whether to have the personnel review done by the County's Human Resources Department or an outside consultant. The motion is seconded by Commissioner Postmus.

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

Commissioner Bagley says that as he understands the motion, the Commission is approving the advertising of the Analyst position but will solicit a human resource review, either free through the County, or by paying a consultant. Commissioner Biane comments that it was discussed that a consultant did a review for Orange County LAFCO and he says it would probably be appropriate to discuss that at the same time. Ms. McDonald says she would like to provide the Commission with some background information related to the personnel rules. Commissioner Biane asks that she find out what an outside consultant will charge for this review. For clarification, Commissioner Biane reiterates his motion, as stated above, and adds that it also includes adoption of an amended resolution to put the Analyst position back into the Terms of Employment.

Commissioner Sedano asks how long this process will take, noting that the staff's workload has not changed since October. Ms. McDonald says the Clerk and Secretary received the special compensation package for six months during the transition period, due to not having the one position. She says that time period lapsed on October 22. Commissioner Postmus points out that special compensation pay is not part of their normal base salary, it is special compensation. Commissioner Sedano says he is concerned that they will be doing the same amount of work but will not be compensated for it. Ms. McDonald says the Commission can authorize an extension of the special compensation pay. Commissioner Sedano says he would make that motion if he could.

Chairman Smith calls for a voice vote on Commissioner Biane's motion which is on the floor. The vote is as follows: Ayes: Bagley, Biane, Colven, Pearson, Postmus, Smith, Williams. Noes: None. Abstain: None. Absent: None.

Commissioner Pearson moves to approve 7½% special compensation pay for a period of three months for the Clerk and the Secretary, seconded by Commissioner Colven.

Legal Counsel Alsop states that the motion can be tied into this agenda item because the recommendation for those positions was to increase the compensation. Discussion follows as to how long of a period the special compensation should be. Commissioner Pearson says he is picking three months as the best median timeframe. He says if the issue has not been dealt with by then, the Commission will have to decide whether or not to extend the special compensation.

Chairman Smith calls for further discussion. There is none and he calls for a voice vote on the motion. The vote is as follows: Ayes: Bagley, Colven, Pearson, Smith, Williams. Noes: Biane, Postmus. Abstain: None. Absent: None.

**PENDING LEGISLATION**

No legislation report is presented.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald announces that there will be no December hearing because only one item, a service contract, is ready for hearing. She reports that the protest hearing on the City of Upland annexation of its large island will be held tomorrow and she notes that, at best, an election will be called due to voter protest.

Commissioner Pearson comments that fire service was discussed during the consideration of that Upland annexation and he says shortly thereafter there was a fire. He asks whether Ms. McDonald has heard any feedback. Ms. McDonald responds that the fire efforts and the coordination of those efforts in this County were phenomenal. She notes, however, that homes were lost in the San Antonio Heights area.

(It is noted that Commissioner Postmus leaves the hearing at 10:30 a.m.)

Ms. McDonald reports that for the January 21 agenda, the Commission will consider two service contracts and, hopefully, service reviews for three Resource Conservation Districts, the San Bernardino Valley Water Conservation District, and the City of Loma Linda. Regarding the balance of the service reviews for the East Valley, she says staff is still waiting for responses to the survey questions from the rest of the agencies. She says that an application from the City of Barstow to dissolve the Barstow Park and Recreation District has been received and will be ready for consideration in February or March. She reports that she has been asked to be an advisor to the Apple Valley Airport Committee, which is studying the transition of the Apple Valley Airport to the Town of Apple Valley, and will have its first meeting on December 8.

**COMMISSIONER COMMENTS**

Commissioner Sedano comments that at the Special Districts Association meeting it was mentioned to him that there was some talk about a change in the memorial that the East Valley Water District has set up for Jim Roddy. Chairman Smith responds that the proceeds from the last "50/50" drawing went to the fire victims but he says those proceeds in the future will continue to go to the Roddy memorial.

Discussion follows related to the Old Fire. Chairman Smith reports that he was fighting fires in different areas for eight days. He discusses how aggressive the Old Fire was and says that even with aggressive firefighting by all the available firefighters, there was not enough manpower.

Commissioner Colven reports that the Big Bear Valley was spared and he says there were over 2,000 firefighters, engines and resources that came into the area. He says the U.S. Forest Service bulldozers were used to create fire breaks. He discusses that an effort is now underway by the City of Big Bear Lake, with the participation of the Big Bear City Community Services District, to put together a "HUF1" plan for the Big Bear Valley, to maintain and make effective the fire breaks. Commissioner Hertzmann comments that the Healthy Urban Forest Initiative (HUF1 plan) is patterned after the National Healthy Forest plan. He says the City is taking the lead on this initiative but welcomes everybody's support.

**COMMENTS FROM THE PUBLIC**

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

**ADJOURN IN MEMORY**

The Commission adjourns in memory of Kim Colven, wife of Commissioner Colven.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS  
ADJOURNED AT 10:40 A.M.**

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 19, 2003**

**ATTEST:**

---

**DEBBY CHAMBERLIN**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

---

**GERALD W. SMITH, Chairman**