

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF SEPTEMBER 15, 2004**

REGULAR MEETING

9:00 A.M.

SEPTEMBER 15, 2004

PRESENT:

COMMISSIONERS:	Jim Bagley, Chairman	Neal Hertzmann, Alternate
	Paul Biane, Vice Chairman	Richard P. Pearson
	Bob Colven	A. R. "Tony" Sedano, Alternate
	Kimberly Cox	Diane Williams
	James V. Curatalo, Alternate	Clifford Young

STAFF:

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

ABSENT:

COMMISSIONERS: **Dennis Hansberger, Alternate**

REGULAR SESSION - CALL TO ORDER 9:03 A.M.

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

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

SWEARING IN OF REGULAR SPECIAL DISTRICT MEMBER OF THE COMMISSION

Clerk to the Commission Debby Chamberlin administers the Oath of Allegiance to regular Special District Member Kimberly Cox, whose term of office expires May, 2008.

Ms. Cox states it is an honor to be representing Special Districts. She says she is a member of the Board of Directors for the Mojave Water Agency and is familiar with land use issues with her work in the public sector. She says she has a Master's Degree from Cal State San Bernardino, with an emphasis in water resource management, and will bring that skill set to complement what is already represented on the Commission.

APPROVAL OF MINUTES FOR REGULAR MEETING OF AUGUST 18, 2004

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

CONSENT ITEMS

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LAFCO considers the items listed under its consent calendar, which Chairman Bagley states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the months of July and August 2004 and noting cash receipts. Executive Officer Kathleen Rollings-McDonald states that she has no reportable expenses at this time. A staff report for the reconciled payments has been prepared, a copy of which 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 payments as reconciled for the months of July and August and note the cash receipts.

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

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

CONTINUED ITEM:

CONSIDERATION OF: (1) ADDENDUM PREPARED AS CEQA RESPONSIBLE AGENCY TO DETERMINE THAT NO SIGNIFICANT CHANGES OR NEW SIGNIFICANT IMPACTS HAVE OCCURRED AND THAT THE FOLLOWING DOCUMENTS PREPARED BY THE CITY OF HESPERIA ARE ADEQUATE FOR USE BY THE COMMISSION, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2953: NEGATIVE DECLARATION PREPARED FOR OAK HILLS COMMUNITY PLAN PRE-ZONING (ZC-2003-11) AND FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF HESPERIA FOR OAK HILLS COMMUNITY PLAN (STATE CLEARINGHOUSE NO. 96031031); (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 2953 - CITY OF HESPERIA REORGANIZATION NO. 2003-02 INCLUDING ANNEXATIONS TO CITY OF HESPERIA, HESPERIA FIRE PROTECTION DISTRICT, HESPERIA WATER DISTRICT AND HESPERIA RECREATION AND PARK DISTRICT, DETACHMENT FROM COUNTY SERVICE AREA 70, IMPROVEMENT ZONE J, AND DISSOLUTION OF COUNTY SERVICE AREA 70, IMPROVEMENT ZONES R-41 AND R-43 (FREEWAY CORRIDOR) - APPROVE STAFF RECOMMENDATION TO CONTINUE TO OCTOBER 20, 2004

LAFCO conducts a continued hearing to consider a reorganization proposal which includes annexation of approximately 2,190 acres to the City of Hesperia, the Hesperia Fire Protection District and the Hesperia Water District, with detachment from County Service Area 70, Improvement zone J, annexation of approximately 2,139 acres to the Hesperia Recreation and Park District, and dissolution of County Service Area 70, Improvement Zones R-41 and R-43. This hearing was continued from July 21, 2004, and notice of the original hearing was advertised as required by law through publication in The Sun, the Daily Press and the Hesperia Resorter, newspapers of general circulation in the areas and landowners and registered voters pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and voters within the reorganization area.

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 the staff recommendation is that this item be continued to the October 20, 2004 hearing to allow for the completion of information gathering regarding modifications in the boundary of this proposal. She says the staff report includes two maps of proposed exclusions to the proposal boundaries originally presented, one presented by City of Hesperia staff and one supplemental staff change to that proposal. She notes that the Commission has been presented this morning with two letters from landowners within the area, Jose Navarrete and George Letts, and says those letters will be taken into consideration as staff further processes this application.

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Chairman Bagley asks if there is anyone present wishing to speak on this item. There is no one.

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

DISCUSSION ITEMS

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2958; AND (2) LAFCO 2958 - CITY OF COLTON REORGANIZATION TO INCLUDE SOUTH ANNEXATION NO. S-50 (SUBAREAS NOS. 1-4) - APPROVE STAFF RECOMMENDATION

It is noted that Legal Counsel Clark Alsop leaves the hearing at 9:10 a.m., as his law firm of Best Best & Krieger is the City Attorney for the City of Colton. Executive Officer Kathleen Rollings-McDonald introduces Jeffrey Goldfarb of the law firm of Rutan and Tucker, who is representing the Commission as Special Counsel on the next two City of Colton proposals.

LAFCO conducts a public hearing to consider the annexation of four islands of unincorporated territory to the City of Colton (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Colton Courier, 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.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez says this reorganization was initiated by the City as a single application. He provides the acreage and location of each island, identified as Subareas 1 through 4, as outlined in the staff report. He says that in staff's view, this proposal is a ministerial action for the Commission since Government Code Sections 56375 and 56375.3 require that the Commission approve the annexation of island territory if those basic findings concerning the size of the islands, the configuration of city boundaries, the lack of prime agricultural land in the areas, the presence of development in the areas and the ability of the areas to benefit from the City's services are made. He says if these findings are made, the Commission is required to approve the proposal and waive the protest proceedings.

(It is noted that Commissioner Young arrives at 9:12 a.m.)

Mr. Martinez shows pictures of each of the subareas on the maps provided in the powerpoint display and discusses the existing land uses within and surrounding the four areas, as outlined in the staff report. He says the City adopted the pre-zoning for the four subareas on July 15, 2003, with the land use designation of Subareas 1 and 2 R1-Low Density Residential and the land use designation of Subareas 3 and 4 IP-Industrial Park, which he says are generally compatible with the County's current designations.

Mr. Martinez says the City has submitted a Plan for Services and he summarizes the services to be provided by the City, as outlined in the staff report. He notes that the four subareas can be included in the Colton Wastewater Service Area; that Subareas 1 and 2 are within the Riverside Highland Water Company (RHWC) Service Area and no change in that service is contemplated; that Subarea 3 is served by both the City and RHWC and no change in service is contemplated; and that Subarea 4 is served by the City and can be included in the Colton Water Service Area. He says the City has indicated that the only financial effect to current and future residents will be the imposition of the Utility Users Tax, which is 4% for residential and 6% for commercial properties, and the imposition of the City's business license fee for business owners.

Mr. Martinez says the Commission's Environmental Consultant Tom Dodson and Associates has indicated that review of this proposal is statutorily exempt from the California Environmental Quality Act

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(CEQA) based on the finding that the Commission's approval is a ministerial action that is exempt from the requirements of CEQA. He reiterates that it is staff's view that the Commission must approve this reorganization and waive the protest proceedings since the findings required by Government Code Section 56375(a), as listed in the staff report, can clearly be made. He adds that the findings required by Commission policy and State law are outlined in the staff report and are made a part of the record by their reference herein.

Mr. Martinez says the staff recommendation is that the Commission: (1) adopt the statutory exemption and direct the Clerk to file a Notice of Exemption within five (5) working days; (2) approve LAFCO 2958 as island annexations, as such is defined in Government Code Section 56375.3; (3) waive protest proceedings, as authorized by Government Code Section 56375.3; and (4) adopt LAFCO Resolution No. 2844 setting forth the Commission's findings and determinations concerning this proposal.

Commissioner Colven asks whether connecting to the City's sewer system is an option for the landowners or whether they must wait until their septic system fails and then will be mandated to connect. Mr. Martinez responds that the City's sewer lines are available and landowners can connect if they want to, and he adds that there is no difference in the rates paid by those within the City and those served outside the City's boundaries.

Chairman Bagley asks Mr. Martinez to clarify what the waiving of the protest proceedings means since someone has requested to speak in opposition to this item. Mr. Martinez explains that if the Commission makes the findings presented in the staff report, then it is required to waive the protest proceedings, regardless of any protest received today. Executive Officer Kathleen Rollings-McDonald adds that there will be no further conducting authority proceedings if the Commission makes the required findings and she says that was outlined in the notification letter sent to the landowners and voters. Commissioner Bagley says he wants it to be clear that if the Commission approves staff recommendation today, this will be the final action on this proposal. He notes that the staff report indicates that no written protests were received. Chairman Bagley opens the public hearing and calls on those wishing to speak.

John Mendocha, a landowner in Subarea 1, speaks in opposition stating that since the City started this process, 21 of the landowners and homeowners in the area have signed a petition in opposition to annexation. Mr. Mendocha says that at every City meeting the residents have attended, they have been told that the City is allowed to annex them due to a State statute; that it is their tough luck; and they have no vote or say on this issue. He says he has asked the City to disclose what the economic impacts will be or what additional benefits the residents will receive, but he says few answers have been provided. He notes that he will leave today 4% lighter because of the City's Utility Users Tax. He says this Commission may not have the authority to change what is happening today, but he says he feels very "put upon". Mr. Mendocha says the Councilmember that will be their representative if annexed has never met with their group one-on-one, but always brought in other staff members who told them the City is statutorily required to annex them.

Celeste Carlos, a resident in Subarea 1, speaks in opposition stating that the residents have received no information as to how being part of the City will benefit them. She says they receive very little patrol service now and asks what is the point of being part of the City if that is the type of service they will receive and what is the point of buying property in a nice private area when they cannot have any say about what can happen with it. Ms. Carlos says the properties in this area are on septic tanks. She says she spoke with Councilwoman Zamora who told her the City would not force the residents to connect to the City's system but would like them to consider it since septic tanks will pollute the water. She says the City has not been upfront with the residents. In response to inquiry of Chairman Bagley she says she received written notice of this hearing from LAFCO, but she says the notice indicated that the annexation will take place, regardless of any protest. She says she, along with other people in the community, signed a petition in opposition to annexation.

Commissioner Young asks Mr. Mendocha whether he received a notice of hearing from LAFCO. Mr. Mendocha responds that he did and that it was the first time they received notice that the annexation was being thought about. He says that Harold Rank, who is frustrated over this issue and did not come

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to the hearing today for health reasons, said that the petition referred to by Ms. Carlos had been presented earlier to LAFCO, but Mr. Mendocha says he doubts it was sent in again recently. He says the petition has been presented four times to the City who said it would be taken under advisement, but indicated that the annexation of islands is a statutory requirement. He says Mr. Rank has been to LAFCO twice and was told this was a statutory matter and he could not do anything about it. Commissioner Young asks what the people said in the protest petition. Mr. Mendocha says it indicated that they were opposed to annexation and have not had an opportunity to vote on the issue but were told that under the island annexation law an island can be absorbed without a vote of the people in the affected area. He says they do not believe the City was clear in what it will do with their area once it is annexed.

Chairman Bagley says one mandate of LAFCO is to consolidate areas where practical and that State legislation passed a mandate on all LAFCOs to accomplish these island annexations. He says he is sympathetic to their frustration and resistance to being annexed but he says that upon annexation, they can become voters in the City and have a voice in what happens, which they do not now have.

Commissioner Hertzmann says that typically areas outside an agency's boundaries that are served water are charged higher fees than those areas inside the agency's boundaries and he asks if that is the case here. Ms. McDonald says that is up to each agency but adds that residents outside the area typically pay premium rates since their property taxes do not go to that agency to support service provision. She says Colton does not charge a premium rate, but she notes that there will be no change for water service for those areas that are part of the RHCW. In response to further inquiry of Commissioner Hertzmann regarding benefits of annexation, Ms. McDonald explains that staff believes that an additional benefit will be the elimination of jurisdictional confusion. She points out that County Service Area 38 currently provides fire protection to these areas from a station in Grand Terrace, which has no paramedics. She says paramedic service is provided through the City of Colton through a contract with the County. She says the Colton Police have no jurisdiction in these islands and that the Sheriff must respond from downtown San Bernardino or, when available, from a unit in Grand Terrace. She says annexation of these islands will eliminate the need for the paramedic contract, solidify the jurisdictional boundaries, and allow the Colton Police to be the service provider along the roadways, all of which she says will be a benefit to the areas.

Commissioner Young comments that he is for annexing the islands, but says if action is taken today, they are removing the possibility of a protest hearing for the area residents. He asks what will happen if a protest hearing is held. Ms. McDonald explains that the standard annexation protest procedures would apply, including the standard protest thresholds. She notes that all four islands are inhabited, so the registered voters would decide the fate of the annexation. Commissioner Young asks various questions about the notification process by LAFCO. Ms. McDonald explains that when the pre-zoning process started on the islands, staff was contacted by a number of people interested in the future processing of the proposals. She says those people were placed on a mailing list and when the applications were received from the City, they were all notified at the beginning of the process. She says all voters and landowners within the areas and surrounding the areas were mailed notice of the hearing 22 days ago. Commissioner Young asks whether people could present written protest during that 22-day time period and Ms. McDonald responds yes. She adds that the notification letter included the LAFCO e-mail address, phone number and mailing address and the address and phone numbers for City staff contacts. She says no written responses were received. Regarding Mr. Rank, Ms. McDonald says she has talked to him over the years regarding this issue. She says that when the pre-zoning process started at the City, a petition was circulated but says she cannot recall whether this office ever received a copy of it. She notes that one phone call was received during the 22-day period.

Commissioner Sedano asks whether people will have to connect to the City's sewer system if they are annexed and then their septic tank fails. Ms. McDonald responds that if a septic tank fails and the Regional Water Quality Control Board (RWQCB) prohibits a new septic tank on the property, connection to the City's sewer system would be a requirement regardless of whether the property is within the City or not.

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Andres Soto, Planning Manager for the City, says that as Ms. McDonald pointed out, if a septic tank fails a person will have to connect to the City's water/wastewater system, if mandated by a State agency. He says there will be no requirement for connection to the City's system if the tank has not failed. Commissioner Sedano says that should have been explained to these people. He asks whether the City has considered waiving the utility tax to appease the people. Regarding Commissioner Sedano's first question, Mr. Soto says the Commission can believe what it chooses, but he says these people have been provided with all the information and answers to their questions. He says they do not want to accept the answers. Regarding waiving the utility tax, he says that is a decision for the City Council. Ms. McDonald adds that the staff report indicates that there are certain waivers of the utility tax for senior citizens and others.

Chairman Bagley asks if there is anyone else, with new material to present, wishing to speak on this item.

Maxine Conley, a landowner in Subarea 1 since 1991, speaks in opposition stating she has voiced her objections four times to the City and has been pushed aside. Ms. Conley says she does not want to be a part of the City because she has no say in what goes on and there are no advantages. She says if they are annexed and required to hook up to the City's sewer system, the City should provide financial assistance. She says the City needs to show what the benefits of being part of the City are and what that will cost. She says everyone in the community objects to annexation but they are frustrated and do not want to come to any more meetings because they have been told to shut up; that they cannot talk. She says the people have signed petitions and that Mr. Rank has taken them to meetings. Chairman Bagley reiterates that the State has put this imposition on the Commission and says the Commission does not have a lot of latitude. He says the only consolation he can offer is that the residents can become voters in the City and have a direct voice in what happens. Ms. Conley says the City only wants these areas for the money. She says they have asked for services from the City, but they only come at their convenience. She asks whether they will have to connect to the City's sewer system if their septic tanks are deemed to be a danger. Chairman Bagley says these are issues that will need to be taken up with the City, since they are beyond the jurisdiction of the Commission.

Oscar Perry, a resident in Subarea 1, speaks in opposition stating that it concerns him that a City representative called a room full of citizens liars. He says that is not the way to treat the public who has been provided this opportunity to make a statement. Mr. Perry says that is how the City treats the public and is why people are here today objecting to being annexed. He says he is concerned with the way the notice from LAFCO was written. He says it indicates that the people have no rights and that annexation is a done process since the areas are under 75 acres, but then on the back of the letter it says that if someone has a written protest, they should send it to LAFCO. Mr. Perry says it is ridiculous to state something like that. Chairman Bagley again comments that State legislation has imposed this law on LAFCO; that this is not a policy chosen by LAFCO. He says people should address their concerns to their locally-elected representative of the State Assembly.

John Mendocha states he has been to many of Mr. Soto's meetings, to Council meetings, and has met with Councilmembers and planning staff and asked for a written list of all the things they would be charged for if they were in the City and what the economic impacts will be. He says he has never received a written list and says today is the first time he officially heard that the Utility User Tax is 4%. He says he and two other people have asked Councilwoman Zamora to meet with them by herself, but he says she refuses to do so. He says they do not feel that other City staff members need to be with her to coach and counsel her. He comments that he has not seen any additional premium-type costs that they have had to pay due to living in the County and receiving services as they have been. Mr. Mendocha discusses the sewer issue, stating that there are no sewers and that the streets in front of their houses are the ones the residents paid for when the RHWC put in new mains. He points out that the strip of Litton Avenue that is in the City and maintained by the City is a four-wheel drive road and has not been paved. He says his biggest concern is not the fact that if his septic tank fails he will have to connect to the City, but that if one person's septic tank fails in this area then probably everyone will be mandated to install sewers. Mr. Mendocha points out that the notice letter received from LAFCO does not say to file a written protest but states that questions should be directed to Mr. Soto or Mr. Zamora. He says the people have been down that road many times and always are told that State law allows the City to do

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this, so they should just "move on". Commissioner Young asks to see a copy of the letter mailed by LAFCO.

Commissioner Cox asks what the City's current process is for converting houses on septic systems to the sewer system and whether the City has something that states that, if a septic system fails and the property is within 200 feet of an existing sewer interceptor, they must connect. Mr. Soto says that is required for new construction, but says it is not required for a failed tank for existing construction. In response to inquiry of Commissioner Cox, Mr. Soto says he does not have the data as to what percentage of the houses are on septic tanks and says that information is kept by the Water/Wastewater Department. He says the City may have ordinances that govern the failure of septic tanks but he does not know. Ms. Cox asks what the RWQCB has said about groundwater contamination and the influence of septic and asks whether the RWQCB has issued any prohibitions to the City. Mr. Soto responds that he knows the RWQCB is concerned with that issue. However, he says he does not have that information but does not believe any prohibitions have been issued. He says that a holding tank, not a septic tank, is required by the City for any new development in areas where the City does not have a water/wastewater system. Commissioner Cox points out that from the purview of water quality, everyone would be concerned about that, but she says that unless the RWQCB has issued prohibitions, there is no concern to that extent.

Mr. Soto responds to the comment made by Mr. Perry and says he did not call the residents liars. He says he simply indicated that their questions have been addressed, but they may not be satisfied with the answers. Regarding the notification letter sent by LAFCO, Mr. Soto states that he has read the letter and thinks it is excellent and can be understood by anyone. He says the statement on the back of the letter about the Commission being required by law to approve the annexation regardless of protest only means that the Commission will be complying with the law, if it approves this annexation.

Commissioner Young says he firmly believes the citizens in the area should know the effects of annexation and says it is incumbent upon the City annexing an area to explain the effects to them. He asks Mr. Soto to explain the process the City went through to inform the residents in these four areas about the proposed annexation.

Mr. Soto explains that after receiving the letter from LAFCO identifying the islands in the City's sphere that were eligible for annexation under the State law, the City Council approved moving forward with annexation. He discusses the pre-zoning process that went before the Planning Commission and says notice was mailed to all people within a 400 foot radius of the area, rather than the 300 foot radius required by law. He reports that Mr. Rank was there to protest but was given the same information that everyone has been given at every meeting--that the City understood their protests but was allowed to proceed with annexation by State law. Mr. Soto points out that councilmembers want to be sure they are providing the most accurate information, which is why they often invite other City staff members to attend meetings with residents. He reiterates that he believes everyone's questions were answered, but says he does not know whether the answers were provided in writing.

Rebecca Mendocha, a landowner in Subarea 1, says the residents were notified that there would be no environmental impacts because of this annexation, but she says the residents think there are environmental impacts in terms of utilities and service, such as water, trash and electricity. Ms. Mendocha says she is concerned that the City is talking about having its own electric company and she says the City Council has never told the residents what impacts that would have on them. She says the road they live on is private and has been maintained by them and points out that the City has never even paved Litton Avenue. She says representatives of the City tell the residents they have no say on this issue and that the City does not have to tell them what services they will receive.

Jim Anderegg, a landowner in Subarea 3, and whose father owns most of the property in Subarea 2, asks the Commission to proceed with the annexation of the other areas if it decides to postpone annexation of Subarea 1. Mr. Anderegg says this issue has been dragging on for the past couple of years; that they have been trying to do something with their properties; and that annexation will be of benefit to them. He

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says he has attended all the meetings regarding annexation and says he thinks the City has made it clear what is going on.

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

Commissioner Pearson reports to the audience that legislation regarding the annexation of islands has recently been approved, and will be effective January 1, increasing the minimum acreage from 75 to 150 acres. He says these people are paying taxes to the County, but says the County has a hard time crossing City boundaries to serve them. He notes that if they are annexed, they will pay taxes to the City and then their service will be provided by the City. He says the sewer issue is a big concern, but he says Mr. Soto has indicated that they will be allowed to have their septic systems, unless they fail. He says that if a septic tank fails and the property is in the County, the City would have to apply to LAFCO for an out-of-agency service contract in order to provide sewer service outside its boundaries. He says that if a septic tank fails, the RWQCB requires that something be done about it, and he says that typically requires connection to a sewer system. He points out that the residents will probably benefit from annexation in the long run if unexpected sewer problems arise. He also points out that the City has no obligation to maintain roads that are not within its boundaries and says once the people are part of the City, they can ask their elected City representatives for assistance with their concerns.

Commissioner Sedano says that, while the Commission has been mandated by legislation to take this action, they agree that cleaning up the islands will be beneficial to everyone. He says the problem is that the City has not properly communicated with the citizens. He says people do not willingly want to be annexed, so cities need to "dangle a carrot" to get them in. He notes that when the City of San Bernardino annexed an area near where he lives, the City appeased the people by waiving the utility tax which was at least 8%. He says Colton's utility tax is 4% and waiving it could make a big difference as far as these people are concerned.

Commissioner Curatalo says that although he has heartfelt sympathy for the concerns expressed today, he believes proper notice was given and, since the required findings can be made, he believes the Commission is required to approve annexation and waive the protest proceedings.

Commissioner Williams says that the Commission understands the frustration of the residents, but she says that once they become part of the City, their votes can make a huge difference. She says they should go to the City Council and ask that roads be fixed, noting that there are Community Development Block Grant monies available to cities. She says if they become their own voice, speaking as a councilmember she can almost guarantee they will be heard.

Commissioner Williams moves approval of staff recommendation, seconded by Commissioner Young. Commissioner Young says he has had experience with both the City of Colton and the School District and says he does not feel the City has treated these people adequately. He says that once they become citizens of Colton, they should take that opportunity to hold their representatives accountable to see that their areas are served as the people want them to be. He says he is very displeased with the way the City has handled this issue but is very pleased with the way the Commission and its staff have tried to include these people in this process. He says he seconded the motion based on LAFCO's responsibility to comply with State law.

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

The Commission adjourns for a break at 10:15 a.m. and reconvenes at 10:23 a.m., with Commissioner Young absent.

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CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2959; AND (2) LAFCO 2959 - CITY OF COLTON SOUTH ANNEXATION NO. S-51 - APPROVE STAFF RECOMMENDATION

It is noted that the Commission is still represented by Special Legal Counsel Jeffrey Goldfarb.

Commissioner Biane announces that he has a conflict with Southern California Edison Company and leaves the hearing at 10:25 a.m.

LAFCO conducts a public hearing to consider an annexation to the City of Colton (hereinafter referred to as "the City") of an unincorporated island of territory encompassing approximately 55.4 acres. This island area is generally bordered on the east by the City of Loma Linda, on the south by the San Bernardino/Riverside County line, on the west by a combination of Reche Canyon Road and parcel boundaries and on the north by parcel boundaries. Notice of this hearing has been advertised as required by law through publication in The Sun and the Colton Courier, 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.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez states that in staff's view, this proposal is a ministerial action for the Commission since Government Code Sections 56375 and 56375.3 require that the Commission approve the annexation of island territory if basic findings are made concerning the size of the islands, the configuration of city boundaries, the lack of prime agricultural land in the areas, the presence of development in the areas and the ability of the areas to benefit from the City's services. He says if these findings are made, the Commission is required to approve the proposal and waive the protest proceedings.

Mr. Martinez reports that the existing land uses within the area are a mix of single-family residences and vacant lands. He says the City pre-zoned the area to SP (Reche Canyon Specific Plan) which allows a variety of residential land uses depending on density requirements. He says the City has submitted a Plan for Services and he summarizes the services to be provided by the City, as outlined in the staff report. He says the Plan shows that the extension of the City's services will maintain and/or exceed the current service levels provided through the County. As discussed in the previous hearing, he says the only financial effect to current and future residents will be the imposition of the Utility Users Tax and the imposition of the City's business license fee.

Mr. Martinez says the Commission's Environmental Consultant Tom Dodson and Associates has indicated that review of this proposal is statutorily exempt from the California Environmental Quality Act (CEQA) based on the finding that the Commission's approval is a ministerial action that is exempt from the requirements of CEQA. He reiterates that it is staff's view that the Commission must approve this annexation and waive the protest proceedings since the findings required by Government Code Section 56375(a), as listed in the staff report, can clearly be made. He adds that the findings required by Commission policy and State law are also outlined in the staff report and are made a part of the record by their reference herein.

Mr. Martinez says the staff recommendation is that the Commission: (1) adopt the statutory exemption and direct the Clerk to file a Notice of Exemption within five (5) working days; (2) approve LAFCO 2959 as an island annexation, as defined in Government Code Section 56375.3; (3) waive the protest proceedings, as authorized by Government Code Section 56375.3; and (4) adopt LAFCO Resolution No. 2845 setting forth the Commission's findings and determinations concerning this proposal.

Chairman Bagley asks if there are any questions of staff.

Commissioner Colven commends the City for going forward with the annexation of its islands. He notes that the same sewage collection issue applies with this annexation and says Mr. Soto already discussed that issue in the previous hearing.

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Mr. Martinez notes that he forgot to point out on the map the location of a mobilehome park and he indicates that the City's sewer lines are located along Reche Canyon Road. Commissioner Colven asks whether maps could be provided during the staff presentations showing how many islands are left in the city being discussed. Mr. Martinez responds that staff is currently in the process of doing that for the whole of the valley area and is using the 150 acre threshold.

In response to inquiry of Commissioner Pearson, Mr. Martinez explains that the area was pre-zoned Reche Canyon Specific Plan, which allows a variety of densities. However, he says the City, in its General Plan, designated the area as RE (Residential Estates), which allows 20,000 square feet per dwelling unit. Chairman Bagley asks whether there has been any dialogue about annexation of the areas that remain in the City's sphere. Mr. Martinez responds that he is not sure of the City's plans but he points out one island in the northwest area that will meet the 150 acre threshold under the new legislation.

Meryl Eagar, a landowner on Reche Canyon Road, says the only information she has ever received about this annexation was through the letter received 22 days ago from LAFCO. She reports that there are little ranches of three to seven acres in this area and asks what annexation will mean as far as the number of animals they will be allowed on their property. She says the City has not given them any answers or kept the residents informed about what is going on. She notes that they maintain their own roads, have wells and do not receive City water.

Commissioner Williams asks whether she has gone to the City and asked her questions about keeping animals. Ms. Eagar responds that she has not talked with anyone yet in the City because she just found out about annexation. She asks whether the City will "grandfather" her property in. She says they bought their home about a year ago in the County rather than the City because of the number and type of animals they were allowed in the County as compared to the City. She says Commissioner Williams suggests that she request in writing that she be "grandfathered" in and says she should follow up by meeting with the councilmember that will represent this area and the City Manager.

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

Commissioner Sedano asks Mr. Goldfarb what recourse people have as far as being "grandfathered" in. Mr. Goldfarb responds that cities usually have a zoning ordinance that has provisions relating to legal, nonconforming uses. He explains that typically there is a provision that as long as the use was legal when it was originally undertaken, that use can continue after annexation as a legal, nonconforming use. He further explains that the use cannot be added to, except under certain circumstances, and if the use is discontinued for whatever the city's period of time is, the right to the legal, nonconforming use will be lost and the existing zoning must be complied with. Mr. Goldfarb says he spoke with Ms. Eagar and told her she should write a letter to the City documenting when she started the farming operation and the extent of the farming operation and indicating that it was legal when it was started.

Chairman Bagley asks for someone from the City to clarify this issue; although he notes that Ms. Eagar left the meeting.

Andres Soto, the City's Planning Manager, says he gave Ms. Eagar his card and asked her to call for an appointment to meet with him so he can provide the information to her. He says the City has a legal, nonconforming use ordinance but he says they cannot add to the nonconformity and will lose it if it is discontinued for more than 90 days. He says the City has an ordinance related to the keeping of animals, which depends on the lot size and other things. He notes that Ms. Eagar purchased her property one year ago and he points out that the City pre-zoned this area about a year and a half ago. He says the zoning of this area is SP (Reche Canyon Specific Plan), but he explains that, at the request of the landowners attending the pre-zoning hearings, the land use designation assigned for this area goes beyond RE, which allows a minimum of 20,000 square foot lots. He says the land use designation for this area allows lots of one acre or more.

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Chairman Bagley asks for further discussion. There being none, he calls for a motion. Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Pearson.

Chairman Bagley allows Edwin Braun, who says he did not realize the hearing had been closed, to speak.

Mr. Braun, a landowner within the area, says he has well water, a septic tank, and receives electricity from the Southern California Edison Company. He says he arrived late for the hearing and asks for clarification on the zoning and whether he will be forced to connect to City services.

Mr. Soto tells Mr. Braun he can maintain the service providers he now has. He says the land use designation in this area is for a minimum of one acre lots and that Mr. Braun, who has three acres, is fine.

Chairman Bagley again closes the public hearing and calls for a voice vote on the motion. The vote is as follows: Ayes: Bagley, Colven, Cox, Pearson, Williams. Noes: None. Abstain: Biane. Absent: Young.

It is noted that at 10:40 a.m., Commissioner Biane and Legal Counsel Clark Alsop return to the hearing and that Special Counsel Jeffrey Goldfarb leaves the hearing.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2925; AND (2) LAFCO 2925 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF SAN BERNARDINO - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of San Bernardino (hereinafter referred to as "the City"). 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 outlines the City's existing boundaries and sphere on the map provided in the powerpoint display. She says that attached to the staff report is an outline of what services a City can perform, as well as a Summary City Profile Sheet and Survey Response provided by the City, which included maps of land use planning within the City. She reports that the known communities within the City's sphere are Muscoy, Arrowhead Suburban Farms, and Arrowhead Springs (the Campus Crusade facility), and says there is no family of districts serving the general San Bernardino community under the Commission's purview other than the East Valley Water District. She notes there are a number of mutual and private water companies and improvements zones of county service areas that provide services in the sphere and says there is a map of the City's Municipal Water Department Service Area and the surrounding water agencies included in the material provided by the City and attached to the staff report.

Ms. McDonald discusses Devore and says that in the early 1990's, that staunchly independent community north of the City requested that the Commission exclude any portion of the Devore Mutual Water Company from the City's sphere, which it did. She reports that this community looked at incorporation but could not meet the minimum threshold of 500 registered voters in the area they proposed to incorporate. Ms. McDonald discusses Muscoy, which she says is also a very independent community of rural residential land uses which has opposed annexation repeatedly. She notes that a number of areas in Muscoy receive sewer service from the City through out-of-agency service contracts. She reports that Muscoy is in the direct path of the 210 Freeway arterial and says the County is addressing that by identifying the community as a redevelopment study area. She says that Attachment 5 to the staff report includes a copy of a Board of Supervisors agenda item releasing a Request for Proposal to look at the feasibility of a redevelopment area for the Muscoy community, the Glen Helen Corridor and the area at the intersection of the I-15 and I-215 Freeways in the southern Devore area.

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She says the redevelopment area has been reviewed with City staff and they had no concerns with that process.

Ms. McDonald says that the City's response to the factors and findings required for a service review is outlined in the staff report. She summarizes the major points of consideration in the survey response provided by the City and says the City does not anticipate any sphere changes in the next five years. She summarizes the services the City currently provides outside its corporate limits by contract, which are outlined in the staff report. She notes an error on page 4 of the staff report in Item 2(c) and says the City provides the housing of animals to the Cities of Colton and Grand Terrace and not to the City of Loma Linda as listed. She reports that none of the adjacent or overlaying agencies have expressed any concerns with the City's sphere as it is presently configured.

Ms. McDonald states that the staff recommendation is that the Commission: (1) determine that LAFCO 2925 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of San Bernardino should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2846 setting forth the Commission's findings and determinations on this proposal.

Commissioner Biane asks whether any of the islands within the City's sphere are 150 acres or less. Ms. McDonald says many of them are larger, noting that Arrowhead Suburban Farms has 400 plus acres. She says that, as Mr. Martinez mentioned, staff is working with the GIMS Department to put together a presentation identifying entirely surrounded islands and those determined to be substantially surrounded. Commissioner Biane asks if there will be dialogue with all the cities that have islands that qualify for annexation under the new legislation. Ms. McDonald says that while the legislation increasing the acreage limitation to 150 acres was going through, staff sent a copy of the pending legislation to all cities that have potential islands that would qualify for annexation.

Chairman Bagley asks for the history as to how the two islands to the northwest of the City's sphere came into being. Ms. McDonald explains that those are municipally-owned properties, containing well fields owned by the City since the early 1970's, which are part of the City's overall Municipal Water Department system. She explains that a city can annex noncontiguous territory it owns and uses for municipal services, noting that the City does not provide any service there, but uses them as well fields only. Chairman Bagley notes that this whole issue would have to be addressed if someone asked for an extension of service by the City and they were outside the City's sphere, which he says is problematic. He says that one of these City-owned property areas is just northwest of Devore and says that since they are conducting this service review, it seems to be the appropriate time to discuss whether there should be a sphere area connecting the City to the municipally-owned properties. Ms. McDonald discusses that the Devore Mutual Water Company has a defined service area in between the existing service boundary for the City and those properties and she says that Company provides service to that area. She discusses the issue of laws of parallel lines that came about in the late 60's and early 70's due to a conflict between the City of San Bernardino and the Devore Mutual Water Company. She says litigation resulted in a law which said that an agency could not lay parallel lines and go through another agency's service area.

Commissioner Biane states that he represents that area and would not support anything that furthers the City of San Bernardino's sphere of influence into the Devore area. He points out that with the growth occurring in that area, Devore may incorporate someday.

Chairman Bagley says he assumes the areas on the map of the City's Municipal Water Department Service Area are adjudicated areas and that a watermaster governs them. Ms. McDonald responds that the watermaster is the San Bernardino Valley Municipal Water District. Chairman Bagley comments that the Baseline Garden Mutual Water Company is a "red flag" to him. He says part of the service review is to look at agencies like that and question why they still exist. Ms. McDonald says that area is part of the East Valley Water District, which is working closely with that Company to make sure it remains viable. She says private water companies are governed by the Public Utilities Commission (PUC) and that mutual water companies are governed by the Department of Corporations. She says she provided this

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map to the Commissioners so they would have information about other "players" in the water field, which do not come under the purview of the Commission.

Commissioner Pearson asks if Ms. McDonald is saying that the Commission has no jurisdiction to make any changes related to those mutual water companies on the City's map. Ms. McDonald responds that the City has taken over a number of small mutual water companies that were failing, but she says the Commission can do nothing to force that.

Commissioner Sedano comments that he thought that Victoria Farms Mutual Water Company was being dissolved and merged with the City's Water Department. Ms. McDonald responds that she does not know for sure, but says the City may be in the process of doing that.

Commissioner Hertzmann asks for clarification as to why the area northwest of Muscoy, up to the well sites, is not included in the City's sphere. Ms. McDonald explains that the community of Devore and the other area he is referring to, which is an area of major flood control facilities, have not been included in any agency's sphere of influence.

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

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

(It is noted that Commissioner Biane leaves the hearing at 11:05 a.m.)

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2929; AND (2) LAFCO 2929 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF REDLANDS - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of Redlands (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Redlands Daily Facts, 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 states that this proposal was initiated by the Commission on January 15, 2003, in response to state mandates requiring service reviews and sphere of influence updates for all cities and special districts on a five-year schedule. She outlines the City's existing boundaries and sphere of influence on the map provided in the powerpoint display, noting the unsphered area known as the "Doughnut Hole". She says the City's sphere includes the whole of the communities of Mentone and Crafton and says there are no community-specific districts providing service that are under the jurisdiction of the Commission. She discusses issues related to the "Doughnut Hole", which are outlined in the staff report, and says the City has indicated that it anticipates a change in its sphere to address areas in the "Doughnut Hole", specifically the Citrus Plaza development, once construction is completed. She discusses new legislation regarding agricultural preserves and Williamson Act contracts and says Government Code Section 56426.5 indicates that for areas that currently have contracts, no sphere change can be proposed introducing agencies with urban level services. She points out that almost all of the Crafton community and portions of the Mentone community are within Agricultural Preserves and says there are a number of Williamson Act contracts within these areas, as shown on Attachment 5 to the staff report. She says landowners must support any change to a sphere in these Preserve and contract areas.

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Ms. McDonald summarizes the major points of consideration provided by the City in its survey response, which are outlined in the staff report. She says the City has indicated that it is a full-service City. She says the City has provided water and sewer services outside its boundaries in the Mentone and Crafton areas since the 1940's and that the Commission is routinely presented with out-of-agency service contracts for the extension of those services in those two communities. She notes that the Commission has determined that the extension of water, sewer, law enforcement, and fire protection/paramedic services to the "Doughnut Hole" is exempt from the provisions of Government Code Section 56133. She says the staff report provides a listing of agencies which overlay the City's corporate boundary and its sphere, as well as an outline of the agencies that overlay the "Doughnut Hole". She reports that none of the adjacent or overlaying agencies have expressed any concerns with the City's sphere as it is presently configured.

Ms. McDonald states that the staff recommendation is that the Commission: (1) determine that LAFCO 2929 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the existing sphere of influence for the City of Redlands should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2847 setting forth the Commission's findings and determinations on this proposal.

Chairman Bagley opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one. He notes that a representative of the City is present and asks if he would like to make any comments.

John Jaquess, City Planner, states he is present to answer questions. Chairman Bagley asks if there are any questions. There are none and he closes the hearing.

Commissioner Colven moves approval of staff recommendation, seconded by Commissioner Pearson. Chairman Bagley calls for further discussion. Commissioner Cox states that since there seems to be quite a bit of history related to this item that she has not been privy to, she will abstain from voting. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Curatalo, Pearson, Williams. Noes: None. Abstain: Cox (Curatalo voting in her stead). Absent: Biane and Young.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2930; AND (2) LAFCO 2930 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 110 - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for County Service Area 110 (CSA 110). Notice of this hearing has been advertised as required by law through publication in The Sun and the Redlands Daily Facts, 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 states that this proposal was initiated by the Commission on January 15, 2003, in response to state mandates requiring service reviews and sphere of influence updates for all cities and special districts on a five-year schedule. She outlines CSA 110's existing boundaries and sphere of influence on the map provided in the powerpoint display. She says that Attachment #2 to the staff report is an outline of the services a County Service Area can provide and that Attachment #3 is a copy of the survey response provided by the County Special Districts Department, administrator of CSA 110. Ms. McDonald reports that CSA 110 was created in 1984 to fund a study of the I-10 Corridor Specific Plan and was authorized powers to provide planning, water, sewer, road, streetlights, park and recreation, fire and soil conservation services. She says that as proposed, it was to include unincorporated territory, as well as territory within the Cities of Redlands and Loma Linda comprising approximately 4,300 acres. She says one of the conditions

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imposed on CSA 110 when the two Cities agreed to the overlay of the CSA was that the District would not construct or operate any service facilities in City boundaries without direct consent of the Cities. She says there also was a requirement that an advisory body be appointed to govern the CSA composed of three members appointed by each entity--the County and the Cities of Redlands and Loma Linda. She reports that the East Valley Corridor Specific Plan was funded, studied and adopted in 1989 and says that, subsequently, CSA 110 became essentially a paper district--a vehicle to accrue revenues for the receipt of unpaid assessments for the preparation of the Specific Plan. She points out that the existence of this District is not recognized by property owners, voters, or by many of the agencies it overlays.

Ms. McDonald says that every finding that is to be made on a service review is not applicable to this agency since it provides no service, has no budget, and has had no meetings in at least ten years. She says the Commission is authorized by Government Code Section 56375(a) to initiate dissolution proceedings if it makes the following two findings, which staff believes can easily be made: (1) no change in service costs is applicable--CSA 110 provides no service and accrues no revenues; and (2) the change would promote public access and local accountability--it will remove an agency which has held no election, has had no public discourse, and has had no budget in over ten years. She notes that the existing service providers with responsibility within the area of CSA 110 are outlined in the staff report.

Ms. McDonald states that the staff recommendation is that the Commission: (1) determine that LAFCO 2930 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) determine that none of the service review factors outlined within Government Code Section 56430 are applicable for CSA 110 since the District provides no services; (3) approve a sphere of influence reduction for CSA 110 to a zero-sphere of influence, with the finding that the agency should be dissolved; (4) initiate proceedings for the dissolution of CSA 110, making the findings outlined in the staff report, as required by Government Code Section 56881; and (5) adopt LAFCO Resolution No. 2843 setting forth the Commission's findings and determinations on this issue.

Commissioner Colven asks whether there is anything to be gained by dissolution, other than that CSA 110 will go away. Ms. McDonald responds that dissolution will remove a continuing overlay that requires the Assessor, State Board of Equalization, and Tax Collector to identify areas as specific tax rate areas. She says removal of this agency will make it simpler for administration of the property taxes. In answer to inquiry of Chairman Bagley, Ms. McDonald says that if the Commission initiates this dissolution, staff will prepare the application, have the map and legal prepared and process the proposal. She says the Special Districts Department supports dissolution and, if asked, will probably be happy to pay the direct costs related to processing the proposal.

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

REVIEW AND ADOPTION OF RESOLUTION APPROVING LAFCO BENEFIT PLAN AND INTERNAL OPERATION GUIDELINES - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to review and consider the Internal Operation Guidelines and Benefit Plan as prepared and presented by the Commission's Human Resources Consultant, Alcock and McFadden. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. 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 at the

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April 2004 hearing, the Commission contracted with the firm of Alcock and McFadden to rewrite the LAFCO Terms of Employment, dividing it into three documents. She reports that the Policies and Procedures were adopted at the July hearing and that today the Commission is reviewing the Internal Operation Guidelines and the Benefit Plan. She states that these documents do not change any of the LAFCO employees' current benefits or add any additional benefits. Ms. McDonald states that the staff recommendation is that the Commission adopt Resolution No. 2842 approving the Internal Operation Guidelines and Benefit Plan and rescinding the Terms of Employment for LAFCO Employees.

Commissioner Hertzmann asks if these benefits are the same as those provided by the County and Ms. McDonald responds that they are the same as the County Exempt Compensation package. Commissioner Hertzmann says he is surprised to see that unlimited vacation accrual is allowed and says he believes it is better to cap vacation accrual and require that employees take vacation for their own good. Ms. McDonald says employees are given the opportunity to cashout an elected number of vacation hours each year if they wish, adding that each LAFCO employee is interested in taking a vacation every year and is encouraged to do so. She says if the Commission wishes to consider putting a cap on vacation accrual, that is outside what is being considered today.

Legal Counsel Clark Alsop notes that there are some nonsubstantive changes to be made to the documents, such as changing references to the County to LAFCO.

Commissioner Cox comments that the probationary period seems short compared to other organizations she has been involved with and asks whether that period is consistent with San Bernardino County government. Ms. McDonald responds that it is.

Chairman Bagley states that Commissioner Hertzmann has raised a concern about capping vacation accrual and he says the staff recommendation could be modified if the Commission wishes to do that. He says there could be a problem if an unlimited number of vacation hours can be accrued. He asks whether employees have the option to cashout annually or can accrue the hours until retirement. Ms. McDonald says that is correct. Discussion follows regarding a cap and Mr. Alsop says the issue is a matter of notice to, and discussion with, the affected employees. He says approval of staff recommendation continues the existing policy. He says if the Commission wants to talk about changing the policy, he suggests that they approve staff recommendation and direct the Executive Officer to bring back that issue in the future. Ms. McDonald says that if that is what the Commission wants to do, she would ask that they extend the contract of Alcock and McFadden since that firm prepared the documents.

Chairman Bagley asks if there is anyone wishing to speak on this item and there is no one.

Commissioner Pearson moves approval of staff recommendation as modified to include the extension of the contract with Alcock and McFadden and directing the Executive Officer to bring back on a future agenda a discussion regarding limited vacation accrual. Commissioner Colven seconds the motion. Chairman Bagley calls for further discussion. There being none, he calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Cox, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane and Young.

**REVIEW AND APPROVAL OF AGREEMENT WITH SAN BERNARDINO COUNTY AUDITOR/
CONTROLLER-RECORDER - APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to review an agreement between the Commission and the San Bernardino County Auditor/Controller-Recorder. 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 prior to the adoption of AB 2838, the County Auditor was required to review and approve all expenditures of the

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Commission. She explains that when AB 2838 required that all LAFCOs become independent, that requirement was removed, and says staff has been working with the Auditor's staff for the past year to specify services the Auditor will provide by contract. She says the agreement presented to the Commission today specifies the obligations of the Auditor and the requirements for processing the Commission's payments and other accounting needs and has been reviewed by LAFCO Legal Counsel. Ms. McDonald states that the staff recommendation is that the Commission: (1) adopt the agreement between the Auditor and the Commission; and (2) direct the Executive Officer to sign the agreement and file it with the County Administrative Office and Auditor/Controller-Recorder. She adds that Legal Counsel has reviewed the agreement.

Commissioner Sedano asks Mr. Alsop if he approves of the agreement. Mr. Alsop responds that he and the County Counsel's office reviewed the agreement, made a few changes and both approve of it. He adds that it has already been signed by the Auditor Larry Walker.

Chairman Bagley asks if there is anyone wishing to speak on this item and there is no one.

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

**REVIEW AND CONSIDERATION OF AMENDMENTS TO CONFLICT OF INTEREST CODE -
APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to review and consider amendments to the Conflict of Interest Code. 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 Government Code Section 87306 requires that the Commission review its Conflict of Interest Code every even-numbered year and upon changed circumstance. She says Legal Counsel Clark Alsop's law firm has presented information about the needed changes to Exhibits A and B of the Appendix to the Commission's Conflict of Interest Code. She says these changes are outlined in the staff report and include the addition of the LAFCO Analyst position under the designated positions and amendments within Disclosure Categories #1 and #3. Ms. McDonald states the staff recommendation is that the Commission: (1) approve the amendments to the Appendix Exhibits A and B of the Conflict of Interest Code; and (2) adopt LAFCO Resolution No. 2841 amending the Appendix and instructing the Clerk to forward it to the San Bernardino County Board of Supervisors for approval.

Mr. Alsop notes that these amendments do not apply to the Commissioners because they are subject to the Form 700 requirement.

Chairman Bagley asks if there is anyone wishing to speak on this item and there is no one.

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

PENDING LEGISLATION

Ms. McDonald says she has presented the Commission with a copy of the legislative report received at the CALAFCO Annual Conference. She reports that she understands from Commissioner Biane that AB

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2067, which allows the consolidation of agencies that are not formed under the same principal acts, has been signed. She reports that AB 2306 has been signed and now only applies to the City of Simi Valley. She says she has given the Commission a copy of AB 3077, which has been signed by the Governor, chaptered, and takes effect January 1, and a copy of SB 1266, which expands the acreage for island annexations from 75 to 150 acres, which also has been signed. She says two bills specific to San Bernardino County died in Committee—SB 1414 related to consolidating water agencies in Southern California and AB 2212 related to an infrastructure financing district for the Harper Dry Lake area.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that there will be three continued items on the October 20 agenda—the City of Hesperia Reorganization in the Freeway Corridor area and the service reviews for County Service Area 63 and the Beaumont-Cherry Valley Water District. She says other items on that agenda include a City of Upland annexation in the southeast corner of the College Heights area, a City of Rancho Cucamonga reorganization proposal for the Henderson Creek Properties (for which she states the environmental review documents have been presented to the Commission this morning to review for the October consideration), service reviews for the San Bernardino Valley Water Conservation District and County Service Area SL-1, a request from the County Consolidated Fire Agency to withdraw the service reviews for Central Valley Fire Protection District and County Service Area 38 because they are looking at a larger consolidation, and the designation of Special Legal Counsel for a City of Fontana Reorganization and two City of Rancho Cucamonga Reorganizations. She says that also in October she will present a quarterly review of the Commission's financial status. She reports that as of today, nine proposals for jurisdictional change have been received and that typically 16 are received in one full year.

Ms. McDonald reports that the November agenda will possibly include another City of Rancho Cucamonga Reorganization, depending on the status of litigation, and the initiation of the service reviews for the Victor Valley/Barstow/North County areas, which includes 43 agencies.

COMMISSIONER COMMENTS

Commissioner Sedano says that it is great that Commissioner Biane was elected to the CALAFCO Executive Board and says he will do an outstanding job. Chairman Bagley says he regrets that he failed to make that announcement earlier and will try to make amends at the next meeting.

Chairman Bagley suggests that a resolution be prepared for out-going Special District member Gerald Smith. He says he would like to present the resolution to him at a luncheon in his honor after the October meeting, if he is available.

Commissioner Cox thanks the Commission for the warm welcome given to her. She says she appreciates the support she has been given and looks forward to working with the members of the Commission.

Chairman Bagley thanks Clark Alsop for the wonderful dinner he and his firm hosted on Thursday night of the CALAFCO Annual Conference.

COMMENTS FROM THE PUBLIC

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

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 11:45 A.M.**

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ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JIM BAGLEY, Chairman