

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

REGULAR MEETING

9:00 A.M.

JANUARY 20, 2010

PRESENT:

COMMISSIONERS:	Jim Bagley, Alternate Paul Biane Kimberly Cox James V. Curatalo Neil Derry, Alternate Larry McCallon	Brad Mitzelfelt, Vice-Chairman Mark Nuaimi, Chairman Richard P. Pearson Robert Smith, Alternate Diane Williams, Alternate
-----------------------	---	--

STAFF:

**Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, Legal Counsel
Samuel Martinez, Senior LAFCO Analyst
Michael Tuerpe, LAFCO Analyst
Rebecca Lowery, Deputy Clerk to the Commission**

ABSENT:

COMMISSIONERS: None

**CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – 9:00 A.M. –
Conference room adjacent to the San Bernardino City Council Chambers located at 300 North “D”
Street, First Floor, San Bernardino**

Personnel (Government Code Section 54957) – Employee Evaluation – Executive Officer

Conference with Legal Counsel Significant Exposure to Litigation (Government Code Section 54956.9(b) – Circumstance Six Island Proposals identified as LAFCO 3067A through LAFCO 3067F

RECONVENE TO REGULAR SESSION – CALL TO ORDER – 9:38 A.M.

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

Chairman Nuaimi 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.

ANNOUNCEMENT OF ACTION FROM CLOSED SESSION

Chairman Nuaimi asks LAFCO Counsel Clark Alsop to report on action taken in closed session. Mr. Alsop states that two matters were discussed. The first was the Executive Officer’s employee evaluation and the second was conference with legal counsel regarding significant exposure to litigation. Mr. Alsop states that no reportable action was taken in closed session.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

2. Approval of Minutes for Regular Meetings of November 18 and December 16, 2009
3. Approval of Executive Officer's Expense Report
4. Ratify Payments as Reconciled for Month of December 2009 and Note Cash Receipts
5. Note Receipt of Proposal Initiated by the City of Yucaipa – LAFCO 3154 - Reorganization to Include Annexations to the City of Yucaipa, the Yucaipa Valley Water District and the San Bernardino Valley Municipal Water District, and Detachments from the San Bernardino County Fire Protection District, its Valley Service Zone and Service Zone PM-3, County Service Area 63, and County Service Area 70 (Annexation No. 5)

A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments and the staff report noting receipt of LAFCO 3154 have been provided and copies of each are on file in the LAFCO office and are made a part of the record by their reference herein.

Commissioner Cox moves approval of the consent calendar, second by Commissioner Pearson. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, Derry, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Mitzelfelt (Commissioner Derry voting in his stead)

CONTINUED/DISCUSSION ITEMS:

CONSIDERATION OF REQUEST FOR WAIVER OR REDUCTION IN FILING FEES FOR THE RECONSIDERATION REQUEST SUBMITTED FOR LAFCO RESOLUTION NO. 3071 (FOR LAFCO 3067A – AREA 1), LAFCO RESOLUTION NO. 3072 (FOR LAFCO 3067B – AREA 2), LAFCO RESOLUTION NO. 3073 (FOR LAFCO 3067C – AREA 3), LAFCO RESOLUTION NO. 3074 (FOR LAFCO 3067D – AREA 4), LAFCO RESOLUTION NO. 3075 (FOR LAFCO 3067E – AREA 5), AND LAFCO RESOLUTION NO. 3076 (FOR LAFCO 3067F – AREA 6) (CITY OF SAN BERNARDINO ISLANDS) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a request for waiver or reduction in filing fees for the reconsideration request submitted for LAFCO Resolution No. 3071 (For LAFCO 3067A – Area 1), LAFCO Resolution No. 3072 (For LAFCO 3067B – Area 2), LAFCO Resolution No. 3073 (For LAFCO 3067C – Area 3), LAFCO Resolution No. 3074 (For LAFCO 3067D – Area 4), LAFCO Resolution No. 3075 (for LAFCO 3067E – Area 5), And LAFCO Resolution No. 3076 (For LAFCO 3067F – Area 6) (City of San Bernardino Islands). Notice of the hearing was advertised as required by law through publication in *The Sun*, a newspaper of general circulation. Individual mailed notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete 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 on December 17, 2009 the Commission received a request for reconsideration for all six islands that were approved at the November hearing. Included with that request was a request for waiver or reduction of the filing fees pursuant to Commission Policy No. 18. Ms McDonald notes that the policy indicates that the Commission may waive the filing fee if it first determines that payment would be detrimental to the public interest and the Commission may only waive or defer the processing cost incurred by the Commission. She explains that Ms. Sue Hulse, the applicant for the reconsideration, has expressed her opinion that the fee requirement for each

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

individual reconsideration request is detrimental to the public interest. She has identified her position in a letter that the fee cannot exceed the estimated reasonable cost for providing the service. LAFCO staff's response is that the cost for the provision of reconsideration requires that LAFCO advertise and provide notice in the same manner as was done for the original hearing and will far exceed the cost of \$1,100 per application or resolution. She states that the staff report lists the costs for notice to landowners and registered voters within and surrounding each individual island. Ms. McDonald explains that the costs for the November hearing exceed \$7,400. In addition, the reconsideration notice must be translated into Spanish. She states that staff, therefore, does not support a reduction or waiver of fees because the cost identified in the fee schedule is reasonable. She reports that Ms. Hulse has stated that protection of the interest of the residents and citizens of the City and County would be supported through reduction or waiver of the fee. Ms. Hulse believes that her desire to express concern transcends her interest in the outcome of LAFCO 3067(E), the island in which she lives. Staff's response is that notice was provided to over 9,000 registered voters and landowners regarding the Commission's consideration of this item, the Commission's need to determine whether or not protest was available, and the criteria that is required for an island annexation. She states further that information was provided on where the staff report and attachments could be reviewed. Staff believes that, given the participation at the November hearing by Ms. Hulse and others, and the information received by LAFCO staff regarding positions taken, that the public interest has been preserved. She states that Ms. Hulse's position is that the requirement to pay the reconsideration fee for each proposal is disproportionate, unjust and detrimental to the public interest. Ms. Hulse reports that the City of San Bernardino, when it initiated the overall reorganization as one application, paid a single fee. Ms. McDonald explains that the calculation of that fee, as stated in the staff report, included a deposit for each area toward direct cost. She states that each of the six islands was charged a \$2,000 deposit toward direct cost and a deposit was paid toward legal counsel costs. Since that time the policy has been changed and the fee schedule now includes a reduced cost but all deposits must be paid and it is the position of the Commission that the fee reduction per area was a benefit because it removed ineffective and inefficient service boundaries. She summarizes that the fee is not disproportionate and based upon the information identified in the report, staff recommends that the Commission deny the request for waiver or reduction of filing fees, noting that in the event any of the requests for reconsideration are withdrawn by Friday, a full refund would be made to Ms. Hulse; however, on Friday the 9,000 notices are scheduled to go out in the mail.

(It is noted the Commissioner Mitzelfelt arrives at the dais at 9:43 a.m.)

Commissioner Derry states that the Third District will transfer \$6,600 from its discretionary funds to cover the filing fees for the request for reconsideration. Ms. McDonald states that upon receipt of that transfer of funds, Ms. Hulse's deposit will be refunded.

Chairman Nuaimi opens the public hearing and asks if there are members of the public who wish to speak on this item.

Susan Hulse states that she will read her statement and distributes copies to the Commission. She expresses her appreciation for the reimbursement from the Third Supervisorial District. She states that her request for reconsideration was made because she feels strongly that the island annexation policy of LAFCO violates the rights of the landowners and voters of the entire county and affected cities. She states the citizens have a right to be informed of the cumulative fiscal and environmental consequences of piecemeal annexations of unincorporated islands in the entire county. She adds that her sole interest in including all six of the islands is to bring to light a policy which she believes is detrimental to the public interest and not just her interest in Island No. 5 where she resides.

Chairman Nuaimi asks that if this is the same testimony that Ms. Hulse will give at next month's hearing for reconsideration and asks that she please keep her comments directly to the issue of the fee deferral or reduction. He explains that the reconsideration itself is not on today's agenda and the only issue to be considered today is the fee deferral or reduction.

Ms. Hulse asks why a new registered voters and landowners list must be purchased if a mailing was just done at the end of October. She states that she was informed by staff that the mailings are exactly the same. She asks

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

if the same lists can be reused. She asks why an individual ad must be placed in *The Sun*. She points out that LAFCO staff changed the single annexation to six separate annexations and asks if only one legal ad could be published instead of six. She asks how the outside area boundaries are determined. She says she cannot find in the policy where it says specifically how surrounding areas are determined. She questions why living on the outer edge of Island 5 she received no notification of Island 4. She does not understand why there is an overlap. She adds that in November she received nine notices and asks if the lists can be merged to avoid this duplication. She does not understand why the cost is \$7,000 for the mailing.

Chairman Nuaimi asks if the summary of costs includes staff time. Ms. McDonald states it does not include staff time. Chairman Nuaimi asks if merging the lists would involve considerable staff time as two different databases are used. Ms. McDonald states the law requires that landowners from the most current assessment roll are notified as well as the most current registered voters. Therefore, the most current lists are obtained. She explains that Commission policy establishes a perimeter by acreage: If the acreage is less than 20 acres, that perimeter is 700 feet or four parcels surrounding the annexation area, or if the acreage is larger than 20 acres, the perimeter is 1,350 feet (one-quarter mile) or four parcels. She explains that staff has, in fact, tried to reduce duplication by doing a northern and southern surrounding list, so there is only one list for Islands 1, 2 and 3, and a separate list for Islands 4, 5, and 6. She points out that Islands 2, 3, and 6 have the same exact cost for provision of services. She states that these databases do not merge easily, and noticing must comply with state law. She adds that notice is provided in a much broader range than required by law in order that the broadest cross-section of people can participate in decisions and are aware of what is happening to them directly and indirectly. Chairman Nuaimi notes that, in spite of this exhaustive process, occasionally staff is accused of not providing adequate notification. Ms. McDonald adds that even though this process is used, many notices are returned.

Chairman Nuaimi calls for questions from the Commission.

Commissioner Cox asks if it is necessary to make a motion to deny the charges in light of Commissioner Derry's financial support for reconsideration. Chairman Nuaimi states the request is for the Commission to waive the fees, if the Commission does not intend to waive or waive the fees action must be taken. Legal Counsel Alsop states the actions of the Commission and the Third District Supervisor must be memorialized in a motion.

Chairman Nuaimi calls upon Gary Lupo to speak. Mr. Lupo states he is one of the affected property owners in the area and owns the property at 6636 Elm Avenue. He states he is a non-resident but has owned the property since 1985. He comments that until October or November when the first notice was received he had not received any previous notices of annexation on this property. He states that the hearing that was held in November was a rubber stamp approval and he was told that his property was in the sphere of influence of the City of San Bernardino. He adds that he was not given the opportunity to vote on whether his property would be in the City of Highland or City of San Bernardino. Had he been given a choice he would have chosen Highland. He explains that he is not a voter in that district because he lives in Riverside. He says that the residents in this area have never been given a choice as to which city they would prefer to be in. Chairman Nuaimi asks Mr. Lupo to keep his comments directed to the issue of the fee waiver and says that these comments will probably be repeated at the hearing for reconsideration. Mr. Lupo states that he believes LAFCO rushed into a decision on this annexation and not enough time was given to present the issue. He states that a reconsideration for the annexation and for the fees should be granted.

Chairman Nuaimi asks if there are any other members of the public who wish to speak on the item. There is no one.

Chairman Nuaimi closes the public hearing and calls for questions from the Commission. Commissioner Biane states that counsel has indicated that the offer by Commissioner Derry must be memorialized and that should not be delayed. He explains that the issue could be included on the following Tuesday's Board agenda for Board of Supervisors approval. He adds that he does not see why the Board would not support the expenditure as it is non-controversial but wanted to state it for the record. Mr. Alsop states that there is no urgency because the fees have been paid and LAFCO will refund Ms. Hulse once they receive payment from the County. Chairman Nuaimi questions if the County chooses not to pay the fees would the Commission then consider the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

waiver. Mr. Alsop clarifies that the Commission, by its motion, would deny the appeal for fee waiver or reduction with or without the County's support.

Commissioner Cox moves approval of the item with the understanding that LAFCO will reimburse the applicant once the fees have been received from the County, second by Commissioner Curatalo. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT ADOPTED BY CITY OF ADELANTO FOR SOUTH ADELANTO ANNEXATION (SCH NO. 2007051115), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3083; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3083 – REORGANIZATION TO INCLUDE CITY OF ADELANTO ANNEXATION AND DETACHMENT FROM SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS NORTH DESERT SERVICE ZONE AND COUNTY SERVICE AREA 70 (CONTINUED FROM THE OCTOBER 21, 2009 HEARING) - APPROVE STAFF RECOMMENDATION TO CONTINUE TO THE APRIL 21, 2010 HEARING

Executive Officer Kathleen Rollings-McDonald states that LAFCO 3083 -- Reorganization to include City of Adelanto Annexation and Detachment from San Bernardino County Fire Protection District and Its North Desert Service Zone and County Service Area 70 has been advertised as required by law. Ms. McDonald states that the City of Adelanto has requested that LAFCO 3083 be continued to the April 21, 2010 hearing.

Commissioner Biane moves approval of the item, second by Commissioner Mitzelfelt.

Ms. McDonald clarifies that the hearing was continued from the October 21, 2009 hearing at the request of the City. She explains that the applicant, who is a property owner, has also requested a continuance in order to resolve fiscal issues.

Chairman Nuaimi opens the public hearing and asks if there are members of the public who wish to speak on this item. There is no one.

Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

(It is noted that Commissioner Derry leaves at 10:03 a.m.)

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3141; AND (2) LAFCO 3141 – SPHERE OF INFLUENCE AMENDMENT FOR SAN GORGONIO PASS WATER AGENCY (EXPANSION) AND SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (REDUCTION) (CONTINUED FROM THE NOVEMBER 18, 2009 HEARING) – APPROVE STAFF RECOMMENDATION

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3097; AND (2) LAFCO 3097 – SPHERE OF INFLUENCE AMENDMENT FOR BEAUMONT CHERRY VALLEY WATER DISTRICT (EXPANSION/REDUCTION) AND YUCAIPA VALLEY WATER DISTRICT (REDUCTION) (CONTINUED FROM THE NOVEMBER 18, 2009 HEARING) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for (A) LAFCO 3141; and LAFCO 3141 – Sphere of Influence Amendment for San Gorgonio Pass Water Agency (Expansion) and San Bernardino Valley Municipal Water District (Reduction); and, (B) CEQA Statutory Exemption for LAFCO 3097; and LAFCO 3097 – Sphere of Influence Amendment for Beaumont Cherry Valley Water District (Expansion/Reduction) and Yucaipa Valley Water District (Reduction). Notice of the original hearing was advertised as required by law through publication in *The Sun*, a newspaper of general circulation in the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies and to landowners and registered voters within and surrounding the reorganization area, County departments and those individuals and agencies requesting mailed notice.

Senior LAFCO Analyst Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez explains that both items were continued from the November hearing to address some concerns that were expressed by property owners within the area. He states that both LAFCO 3141 and LAFCO 3097 are sphere of influence amendments that are component actions to the concurrent reorganization proposal, LAFCO 3098, which will be considered following the sphere proposals. He explains that a sphere of influence is a planning tool defined as a probable future service boundary for an agency. The two proposals before the Commission will not alter or change the existing boundaries for the districts. LAFCO 3141 is a sphere of influence amendment between two water wholesalers, a sphere expansion for the San Gorgonio Pass Water Agency (hereafter referred to as "Pass Agency"), and a sphere reduction for the San Bernardino Valley Municipal Water District (hereafter referred to as "Valley District"). He states that both districts are state water contractors that provide wholesale water service within parts of San Bernardino County and Riverside County. LAFCO 3097 is a sphere of influence amendment between two retail water providers, a sphere of influence reduction and expansion for the Beaumont Cherry Valley Water District (hereafter referred to as "District") and a reduction for the Yucaipa Valley Water District sphere of influence.

Mr. Martinez notes that in March 2008 the District submitted its sphere of influence expansion proposal and a concurrent annexation proposal to annex all of its properties in San Bernardino County. He points out on the overhead display the area generally located in the Oak Glen community along Oak Glen Road north and west of the San Bernardino-Riverside County lines. Mr. Martinez notes that two of the District's properties are not currently in the District's sphere of influence. Therefore, LAFCO 3097 is a proposal to expand the District's sphere by approximately 24 acres to include those two parcels and concurrently remove them from the Yucaipa Valley Water District's sphere of influence. LAFCO 3141 is a proposal that was initiated by the Pass Agency in response to LAFCO staff concerns. LAFCO policy requires that a concurrent annexation take place to the appropriate water wholesaler for the region when a retail water provider proposes annexation. He explains that currently the District's sphere of influence within San Bernardino County is in the sphere of influence assigned to the Valley District. LAFCO staff indicated early in the process that it would recommend that the reorganization include annexation to the Valley District. Pursuant to subsequent discussions among the districts, the Pass Agency and the Valley District have agreed that the Pass Agency should serve the District within San Bernardino County since it already serves and overlays the District within Riverside County. In order to facilitate this, the Pass Agency submitted the subject proposal which expands the Pass Agency's sphere of influence to include the entirety of the District sphere of influence in San Bernardino County, including that portion being expanded by the District per LAFCO 3097.

Mr. Martinez says that these proposals were continued from the November hearing based on concerns raised by property owners within the area. He points out on the overhead display the properties whose owners submitted letters expressing concern. He states that the area in blue includes multiple owners from the same family. Landowners objected to the transfer of the properties to the Pass Agency's sphere and preferred to remain in the Valley District's sphere, and the property owners were not aware that they were in the District's sphere of influence. In addressing the concerns of the landowners, LAFCO staff took into consideration the topography of the land, as well as the serviceability of the area. In reviewing the topography of the land, LAFCO staff's analysis indicates that the northern portion of the District sphere of influence actually slopes down northerly or westerly, whereas the remainder slopes along a ridge southerly directly to the service area of the Pass Agency and the District. He states that with regard to the feasibility of service delivery, LAFCO staff's analysis also indicates that because of the ridge, for most of the area, service for any future infrastructure needs will come from the south, directly from the Pass Agency and the District's service area. In preparing its recommendation, Mr. Martinez states LAFCO staff took these factors into consideration as well as the ownership of the properties by the same family. Mr. Martinez

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

points out the modified boundary for LAFCO 3141 which is being reduced in the northern area to exclude approximately 265 acres and the modified boundary for LAFCO 3097 which includes a reduction of the northern piece of the existing district's sphere of influence.

Mr. Martinez states that a meeting was held on December 15, 2009 where the property owners present and representatives of the District's staff were presented with staff's analysis and recommendation. The Beaumont Cherry Valley Water District, the Pass Agency, and the Valley District expressed no concern regarding the modifications. The property owners present were amenable to the modified boundaries and to this date LAFCO staff has received no written comments in support or opposition to the modified changes.

Mr. Martinez states the staff recommends that the Commission approve the boundaries for LAFCO 3141 as modified, and LAFCO 3097 as modified. Staff's responses to the factors of consideration as required by state law are identified in the staff report. For environmental review, the Commission's environmental consultant, Tom Dodson & Associates, has indicated that the LAFCO 3141 and LAFCO 3097, as modified, are statutorily exempt from environmental review. This recommendation is based on the finding that the Commission's approval of the sphere modification has no potential for causing physical changes to the environment; therefore, the proposals are exempt from CEQA. Finally, Mr. Martinez notes that the Valley District and the Yucaipa Valley Water District consent to the reduction of their spheres. Mr. Martinez summarizes the reasons for LAFCO staff's recommendations for approval of LAFCO 3141 as modified and LAFCO 3097 as modified, as outlined in the staff report.

Chairman Nuaimi calls for questions from the Commission. There are none.

Chairman Nuaimi opens the public hearing and asks if there are members of the public who wish to speak on this item. There is no one.

Chairman Nuaimi closes the public hearing.

Commissioner Curatalo moves approval of the item, second by Commissioner Cox. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3098; AND (2) LAFCO 3098 – REORGANIZATION TO INCLUDE ANNEXATIONS TO BEAUMONT-CHERRY VALLEY WATER DISTRICT AND SAN GORGONIO PASS WATER AGENCY, AND DETACHMENT FROM SAN BERNARDINO VALLEY MUNICIPAL WATER DISTRICT (CONTINUED FROM THE NOVEMBER 18, 2009 HEARING) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3098; and LAFCO 3098 – Reorganization to Include Annexations to Beaumont-Cherry Valley Water District and San Gorgonio Pass Water Agency, and Detachment from San Bernardino Valley Municipal Water District. Notice of the original hearing was advertised as required by law through publication in *The Sun*, a newspaper of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies and to landowners and registered voters within and surrounding the reorganization area, County departments and those individuals and agencies requesting mailed notice.

Senior LAFCO Analyst Samuel Martinez presents the staff report, a complete 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 the District's primary purpose for the annexation proposal is to annex all of its properties in San Bernardino County. He says the Pass Agency and the Valley District have agreed that the Pass Agency would serve the District's boundaries within San Bernardino County, so the reorganization proposal will also include annexation to

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

the Pass Agency. Mr. Martinez states that with regard to the boundaries, the original proposal only included the District's properties. LAFCO staff expanded the proposal to include an island between the existing boundaries of the Yucaipa Valley Water District and the proposed boundaries for the District. In addition, it has been verified that the residence on these parcels is being served by the District for domestic water service. He says that the boundaries for the reorganization proposal have been expanded to include the annexation of the two parcels and it is in LAFCO staff's view that the expansion is a logical boundary since it eliminates the creation of an island, and the expansion is justified since the residence is already being served by the District. The District's territory in Expansion No. 2 within San Bernardino County is already within the Valley District, and since the Pass Agency and the Valley District have agreed that the Pass Agency should serve the entirety of the District's boundaries within San Bernardino County, the proposal has been expanded to include the detachment of the District's current territory in San Bernardino County from the Valley District and annexation to the Pass Agency. He says the expansion would remove the area currently within the Valley District and annex it to the Pass Agency, placing the District's boundary wholly within a single state water project contractor. LAFCO staff fully supports this, since transferring state water to two state water contractors would be eliminated. He points out the modified boundary and states that the reorganization area is a mix of primarily vacant land in the residential development. He says the unincorporated portion of the reorganization area is in the Oak Glen Community Plan area with a designation of RL – Rural Living and RL-20. The portion that is within the City of Yucaipa has a City of Yucaipa land use designation of RL-5. He states that no change in land use is anticipated as a result of the reorganization proposal.

Both the District and the Pass Agency have submitted plans for service and the District has indicated that it does not intend to extend any additional water lines or facilities within the reorganization area and the existing residence is already being served by the District. In addition the Pass Agency has also indicated that it does not anticipate extending any facilities within the area.

Mr. Martinez states that LAFCO's environmental consultant has indicated that LAFCO 3098 is statutorily exempt from environmental review based upon the fact that LAFCO 3098 has no potential to cause any adverse effect upon the environment. Mr. Martinez states that LAFCO 3098 as modified represents a reasonable annexation to the District and the Pass Agency. The modification includes two additional parcels which is a logical expansion since it eliminates the creation of an island, and places the area wholly within a single state water contractor. Mr. Martinez states in conclusion that staff recommends approval of LAFCO 3098 as modified for the reasons outlined in the staff report.

Chairman Nuaimi calls for questions from the Commission. There are none.

Chairman Nuaimi opens the public hearing and asks if there are members of the public who wish to speak on this item. There is no one.

Chairman Nuaimi closes the public hearing.

Commissioner Biane moves approval of the item, second by Commissioner McCallon. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None

MID-YEAR BUDGET REVIEW FOR FISCAL YEAR 2009-10 - (A) FINANCIAL REPORT FOR PERIOD JULY 1 THROUGH DECEMBER 31, 2009, (B) DISCUSSION OF RETIREMENT REPLACEMENT BENEFIT PLAN, (C) REPORT FROM COMMISSION TRANSITION SUBCOMMITTEE – APPROVE STAFF RECOMMENDATION

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

LAFCO conducts a public hearing to consider the items under the Mid-Year Budget Review for Fiscal Year 2009-10. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Financial Report for Period July 1 through December 21, 2009:

Ms. McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She says information regarding expenditures, reserves, and revenue accounts has been provided to the Commission. She comments that the current economic crisis affects the cities, districts, the county, and the state and LAFCO. She reports that 57 percent of the salaries and benefits budget has been expended; however, that figure includes the payments necessary for elimination of the Clerk to the Commission position which occurred in the first half of the year. The first half of the year also included 14 pay periods as this year there are 27 pay periods. She says a normal payment schedule is anticipated for the balance of the fiscal year, which will total about 99 percent of budget authority. Ms. McDonald states that the report is requesting authorization for the Executive Officer to contract for preparation of the minutes for Commission hearings. She explains that the elimination of the Clerk to the Commission position required that those duties be reassigned to existing staff, and the preparation of the minutes has impacted the ability of staff to process the necessary paperwork in the office. Ms. McDonald states she has contacted both former Clerks to determine if they would be interested in taking and transcribing the minutes of the hearings. Debby Chamberlin declined; however, Anna Raef has indicated that she would be willing to contract to prepare the minutes on an as-needed basis. Approval of this contract authorization will allow staff to complete necessary assignments in a timely manner.

Ms. McDonald states that with regard to services and supplies, staff has identified that 60 percent of budget authority has been expended; however, that includes a number of full-year and one-time costs including payment of membership in CALAFCO, COWCAP cost allocation in the amount of \$53,000, which pays for County services, and \$10,000 for GIMS services, paid in the first half of the fiscal year. In addition, costs related to LAFCO 3076, the consolidation proposal, were paid in the first half of the year. It is anticipated that the services and supplies series of accounts will total about \$161,000 for the balance of the fiscal year. She says that to date no activity has taken place in the contingency or reserves accounts; however, with the anticipated expenditures it is probable that a transfer from reserves will be necessary to address the full costs of activities at the end of the year. Ms. McDonald points out on the overhead display a chart showing the proposal and service contract activity level. Ms. McDonald notes that to date three active proposals have been submitted, although staff had anticipated six. No island annexations have been submitted; however, one is anticipated. No development service contracts have been submitted, while two non-development service contracts, and four service review deposits have been received.

Ms. McDonald states that 97 percent of revenues and 99.3 percent of the mandatory apportionments have been received. The apportionment from the Baker Community Services District is expected during the month of February. Processing of proposals has generated recovery of \$30,000 in costs. She says the spreadsheet identifies that 55 percent of fee revenues have been received; however, \$26,000 is reimbursements, not new fee activity, so in actuality only 35 percent of proposal activity revenues have been received. She indicates that one dissolution proposal for a County Service Area is anticipated.

Ms. McDonald states that staff is not requesting any action by the Commission relating to adjusting revenues and expenditures at today's hearing. However, at the April hearing when the proposed budget is reviewed necessary changes and accommodations will be recommended. Ms. McDonald states that staff's recommendation is for the Commission to note and file the Mid-Year Report and authorize the Executive Officer to contract for the preparation of the minutes.

Chairman Nuami calls for questions from the Commission. There are none.

Commissioner McCallon moves approval of the item, second by Commissioner Pearson. Chairman

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None

Discussion of Retirement Replacement Benefit Plan:

Ms. McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She states that in December 2003 the Commission was notified by the San Bernardino County Employees Retirement Association that a new law took effect January 1, 2004 related to the need for a Replacement Benefit Plan.

Commissioner Biane moves approval of the item, second by Commissioner Cox. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None

Report from Commission Transition Subcommittee:

Ms. McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She says a conference call was held including members of the subcommittee comprised of Chairman Nuaimi, and Commissioners Biane and Curatalo, relating to questions regarding the existing job description for the Executive Officer, job profile and performance appraisal. Discussion was also held regarding developing a more comprehensive hiring process, and an amended scope of work presented by Alcock and McFadden. She explains that no action is required unless there is direction to staff for follow-up at next month's hearing and at the April 21 budget meeting.

Commissioner Curatalo asks if there will be any more phone conferences or committee meetings. Ms. McDonald responds that she believes in February there will be some discussion regarding contract amendments, and a conference call is anticipated in advance of that.

Commissioner Biane moves approval of the item, second by Commissioner Cox. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None

SERVICE REVIEW FOR THE COMMUNITIES OF INDIAN WELLS VALLEY, RED MOUNTAIN AND SEARLES VALLEY WHICH INCLUDES A REVIEW OF SEARLES DOMESTIC WATER COMPANY AND THE FOLLOWING SPHERE OF INFLUENCE UPDATE/AMENDMENT REVIEWS:

A. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3025; AND (2) LAFCO 3025 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 82

B. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3017; AND (2) LAFCO 3017 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 30

C. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3027; AND (2) LAFCO 3027 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR INDIAN WELLS VALLEY WATER DISTRICT

D. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3043; AND (2) LAFCO 3043 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR EAST KERN HEALTHCARE DISTRICT

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

E. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3044; AND (2) LAFCO 3044 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR RAND COMMUNITIES WATER DISTRICT

F. CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3145; AND (2) LAFCO 3145 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CALIFORNIA CITY COMMUNITY SERVICES DISTRICT

LAFCO conducts a public hearing to consider the Service Review for Searles Valley community. Notice of the hearing was advertised as required by law through publication of an 1/8 page ad in the *Daily Independent*, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice. LAFCO Analyst Michael Tuerpe presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein.

Mr. Tuerpe states that this report is different from prior reviews because: (1) it contains service reviews for a number of distinct communities; (2) these communities are primarily associated with Kern County; and (3) Kern County is the principal county for three of the five special districts being reviewed and would govern any type of change of organization affecting them.

Mr. Tuerpe points out on the overhead display the communities of Rand, Red Mountain, Ridgecrest, Indian Wells, Searles Valley and Trona. The Rand community has three subcommunities for mining, including Randsburg and Johannesburg in Kern County and Red Mountain in San Bernardino County. He states that for this community two districts from Kern County extend into San Bernardino County. Those are the East Kern Healthcare District and the Rand Communities Water District. County Service Area (CSA) 30 is a streetlighting district confined to territory within San Bernardino County by its principle act.

Mr. Tuerpe points out Indian Wells Valley Water District and the Naval Weapons Station on the overhead display, noting that they cross County boundaries. He points out the Searles Valley community, wholly within San Bernardino County, and notes the service providers as CSA 82 which provides park, streetlighting, sewer and cemetery and Searles Domestic Water Company, a private water retailer.

He explains that the Commission does not have statutory sphere of influence amendment authority for the three districts where Kern County is the principal county. Mr. Tuerpe notes that issues relating to the spheres of influence assignment have never been shared with San Bernardino LAFCO. In the 1970s San Bernardino LAFCO was notified of establishment of a boundary for annexation. During that time the Commission expressed its concerns regarding land use and size of the annexation because the majority of the land was public; however, the land was annexed anyway. He explains that, following those annexations and establishment of the boundaries, spheres of influence were established or extended into this county with no information provided to San Bernardino LAFCO. Staff is now asking the Commission to acknowledge the spheres of influence that have been established or amended by Kern LAFCO as reflected on the maps. He states that Kern LAFCO did service reviews for the two water districts last year and per its procedures will undertake the sphere of influence updates later this year.

Mr. Tuerpe points out on the overhead display the 4.25 square miles which are within San Bernardino County of the 32 square miles comprising Indian Wells Valley Water District. The service area, however, is limited to about one square mile. LAFCO staff has questioned why so much area is included within the District within San Bernardino County when the land uses do not support such municipal services. Mr. Tuerpe states that the Rand Communities Water District encompasses approximately 581 square miles and approximately 117 square miles are within San Bernardino County. Of the 117 square miles within San Bernardino County, 13 square miles is the actual service area and 93% is public lands and as with the Indian Wells Valley Water District LAFCO staff questions the inclusion of territory without the need for municipal type services. Mr. Tuerpe refers to the East Kern Healthcare District and points out the county

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

line on the overhead display. Only three square miles of the 581-square-mile district are in San Bernardino County. The district provides basic medical services for the communities of Randsburg, Johannesburg and Red Mountain. Land uses in this area are mostly residential.

Mr. Tuerpe states that the report identifies actions related to the dissolution of California City CSD as a clean-up item. He notes that in 1964 the district was expanded into San Bernardino County as part of a larger annexation of 60,000 acres, the majority of which were in Kern County, for development. The development did not come to full fruition; however, the district remained. He says that in 2003, as a part of a larger reorganization, the district was dissolved by Kern LAFCO through resolution; however, the filing documents were only recorded in Kern County. As part of this service review it was discovered that this district still exists on paper within San Bernardino County; therefore, a certificate of completion was filed with San Bernardino County Recorder and a statement of boundary change was issued and filed with the State Board of Equalization, to complete the dissolution process for the lands within San Bernardino County. He explains that the County Auditor has also verified that there has been no tax or assessment activity since 2003 for this district. All copies of the documents have been provided to the County Assessor and the Property Tax Division of San Bernardino County and the Kern LAFCO.

Mr. Tuerpe states that San Bernardino LAFCO has direct jurisdiction over CSA 30 and CSA 82. CSA 30 is a 2.5-square-mile district in Red Mountain, providing streetlighting services. He says that LAFCO staff has concerns regarding the budget for this district. Mr. Tuerpe notes that the budget projects a year-end fund balance of zero dollars; however, this includes a line-item budget for reserves and contingencies. However, the audits identify no use of the reserve and contingency amounts; therefore the exclusion would result in a end-of-year balance for this district of \$427. LAFCO staff believes the budget should be more reflective of its activity and show an appropriate balance or not count reserves and contingencies under an expenditure category. Given the financial challenges for CSA 30, two options exist for this agency; one would be to decrease the number of street lights or to merge all street lighting entities into one entity. Mr. Tuerpe notes the staff position that if the function was merged, economies of scale could be realized, and expenditures would be paid from one fund.

Mr. Tuerpe states that CSA 30 is also authorized planning powers which have never been utilized. Traditionally, LAFCO staff would recommend that that power be removed; however, the legislation effective January 1, 2009 no longer allow the Commission to remove an authorized function of an entity without a separate proceeding. Such divestitures are now considered a change of organization; however, CSA law does allow the Board of Supervisors, through resolution, to divest a county service area of a function if it deems that that function is not provided and no successor is required to be identified. Mr. Tuerpe states that staff recommends that the Commission request the Board of Supervisors to divest CSA 30 of its planning function and provide a copy of the required resolution to LAFCO. LAFCO staff will then amend the listing of authorized functions and services accordingly.

Mr. Tuerpe states that CSA 82 is located in the northwestern portion of the County at the Inyo County line. He points out on the overhead display the Argus mountain range and the Searles dry lake and the chemical mining activity of Searles Valley Minerals. The district actively provides park, streetlighting, sewer and cemetery services. It is also authorized animal control power, which it does not utilize. Mr. Tuerpe notes that when looking at the budget for CSA 82, the year-end fund balance for this district appears to be \$0; however, as noted for CSA 30 the exclusion of reserves and contingencies not utilized would result in a fund balance. He explains that the district has two funds, park/street lighting and sewer; however, the park and street lighting fund does not pay for streetlighting. Special Districts staff has indicated that streetlights are paid from the sewer enterprise fund. He states that it appears that the managerial function is provided by Water and Sanitation Division of County Special Districts. LAFCO staff is recommending a change in budgetary operations to correct the fund from which streetlights are paid. In addition, Mr. Tuerpe states that when reviewing the CSA 82 budget it appears that the district does not receive a share of property taxes. However, as the audit for the District indicates the district does receive property taxes. Those property taxes are deposited into the capital replacement reserve fund, the funds are then annually

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

transferred into the sewer operating fund, and \$25,046 is transferred from the sewer operating fund to the park fund. Mr. Tuerpe expresses a concern regarding the lack of transparency for the use of ad valorem property tax revenues.

Mr. Tuerpe discusses the non-profit Searles Valley Cemetery Association (hereafter shown as Association) and states that the Association had a goal in the early 1960s to provide free cemetery services to those within the Searles Valley and Trona areas. As State law was written at that time, a private cemetery would have required an initial deposit into an endowment fund of \$25,000. He says that the Association, as a non-profit organization, did not have the resources available to comply. Also community services districts, at that time, were not permitted to perform cemetery services. Therefore, the Association asked the County to form a county service area, CSA 22, to provide the mechanism for a public cemetery to exist. In 1976, as part of a larger reorganization, CSA 22 dissolved and its function became a part of CSA 82. In 1977, San Bernardino LAFCO recognized the actively-provided services of CSA 82 which included cemetery. Since that time CSA 82 has been the responsible entity for cemetery services within its boundaries. Mr. Tuerpe states that the County, on behalf of CSA 82, owns the cemetery land. The District responsible for the provision of cemetery service, is CSA 82; however, the administration, operation and oversight of the cemetery is provided by the Searles Valley Cemetery Association. LAFCO staff requested information on the contractual arrangement for service but neither party was able to provide a copy of a written agreement detailing the above. He says that there were two instances, one in the 1960s and one in the 1980s of the Association asking the County to enter into an agreement which would outline each party's responsibilities. He says that CSA 82 receives a share of the property tax; however, there is no evidence that any share of the property tax has been provided for cemetery operations.

Mr. Tuerpe states that the Association has the goal to provide free cemetery service to the residents of Searles Valley and Trona. It does, however, charge a small amount to those not residing within CSA 82 who wish to use the cemetery for burial. LAFCO staff questions how a second party can charge a fee when the responsibility should be with CSA 82 as the government agency with responsibility. Mr. Tuerpe states that in comparison the County provides cemetery services through CSA 29 in Lucerne Valley. In that district the authority for cemetery operations and the fee structure is with the district. Mr. Tuerpe states the cemetery has been operating on county land, and as recently as 2008, Searles Minerals donated new cemetery land accepted by the County. LAFCO staff believes there are three options for clarification of the management structure. Those are: 1) enter into a written agreement with Searles Valley Cemetery Association outlining each party's responsibilities; or 2) divest CSA 82 of the cemetery function, transfer the land of the cemetery to Searles Valley Cemetery Association and provide the Association with an endowment fund since CSA 82 does receive a share of property taxes which can be attributed to a cemetery function; or 3) to assume full responsibility and direct control of the cemetery. LAFCO staff believes the first option, a written agreement, would be the simplest process.

Mr. Tuerpe points out an aerial photo on the overhead display and indicates the boundary of CSA 82. He points out the cemetery parcel and shows that a portion of the boundary of the cemetery is in CSA 82 and two portions are not within the boundary of the CSA. This information is not provided in the staff report as it was determined following publication. The parcel in question is 048502121 and extends beyond the boundaries of CSA 82 in two areas on the west and east. LAFCO staff recommends that CSA 82, through the Special Districts Department, bring the entirety of the parcel within the boundaries of CSA 82 to bring it in full compliance with state law.

Mr. Tuerpe states that the sphere of influence and boundary of the district are coterminous excluding the Searles Valley Minerals plant. However, the Searles Valley Minerals plant is the focal point of the community and the domestic water provider for the community is the Searles Domestic Water Company, a wholly owned subsidiary of Searles Valley Minerals. Mr. Tuerpe notes that LAFCO staff believes that the boundaries of the water company represent the boundaries of the community. As San Bernardino LAFCO takes a community-by-community approach to spheres of influence, staff recommends that the sphere of

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

influence be expanded for CSA 82 to encompass the entirety of the Searles Valley community, which would also include the entirety of the cemetery parcel.

Mr. Tuerpe states that animal control is an authorized function, but it has not been provided for some time. LAFCO staff recommends the Commission request the County to divest CSA 82 of its animal control function, forward its resolution to LAFCO and LAFCO staff will then amend the documentation accordingly.

Chairman Nuaimi calls for questions from the Commission. There are none.

(It is noted that Commissioner Bagley leaves at 11:00 a.m.)

Commissioner Mitzelfelt moves approval of the item, second by Commissioner Biane. Chairman Nuaimi calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Biane, Cox, Curatalo, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None

STATUS REPORT – LAFCO 3082 – SPHERE OF INFLUENCE REVIEW (EXPANSIONS) FOR CITY OF VICTORVILLE AND VICTORVILLE WATER DISTRICT AND LAFCO 3089 – SPHERE OF INFLUENCE ESTABLISHMENT FOR THE HELENDALE COMMUNITY SERVICES DISTRICT

LAFCO considers the Status Report for LAFCO 3082 and LAFCO 3089. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Ms. McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. She says that at the November hearing the environmental impact report for the City of Victorville General Plan Update was provided to the Commission in contemplation of hearing these items at the January hearing. Ms. McDonald states that the status report provides a three-year history of these proposals and identifies that that LAFCO staff has maintained these two proposals together throughout their processing because they are defined as conflicting proposals. She points out on the map the Helendale CSD establishment request submitted by that district and the City of Victorville proposal for sphere expansion submitted as part of its service review and consolidation of the Victor Valley and Baldy Mesa Water Districts. Ms. McDonald notes that information has been presented that territory in the City of Adelanto will be proposed for placement within the City of Victorville sphere with the consent of the City of Adelanto. She says that the staff reports identify the issues and request for continuance to the April 21, 2010 hearing received from the First District Supervisor. The staff report provides information on issues which must be resolved in order to move forward with these controversial proposals. The City of Victorville City Council on January 5, 2010, did approve a modified boundary that LAFCO staff will evaluate. At that time, LAFCO staff learned of the City of Adelanto's proposal to give up territory north of SCLA to the City of Victorville. LAFCO staff has requested but not yet received service review materials from the City of Victorville/Adelanto addressing this area. Additional information has been requested from the County with regard to the transfer of the County Solid Waste Management's assessment to the Helendale CSD. She states that LAFCO staff recommends the continuance with recognition that in April, regardless of whether the information is forthcoming or not, the proposal will be considered with the implications on mineral resources, service delivery and other issues. She explains that no action is required of the Commission at this time.

Chairman Nuaimi calls for questions from the Commission. There are none.

PENDING LEGISLATION REPORT

Ms. McDonald states there is no pending legislation report at this time.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that the Commissioners have been provided information on the formation of a southern California LAFCO organization. She says the report was presented by the Executive Director of CALAFCO to his Board of Directors indicating his concerns related to the potential loss of the six southern California counties. There would be an impact, not only on the financial condition of the organization, but on its volunteers and legislative program. Also provided to the Commissioners is a letter dated January 12, 2010 from the CALAFCO Board president to the Los Angeles LAFCO responding to a staff report prepared by the Los Angeles LAFCO. She states that CALAFCO's Executive Director has asked that the letter be distributed to every Commissioner in the south. Ms. McDonald comments that she was quite shocked that the president of the Board of Directors would respond to a staff report in this manner. At last Friday's Board of Directors meeting, by unanimous vote the Association adopted the regional concept of four regions. The only shift would be that Ventura would now be part of the Coastal Area and Sacramento and El Dorado would be part of the Central Area. A vote will be held on that representation with a bylaw change by no later than June of this year. CALAFCO has recommended that the selection of representatives for each region be held at the annual conference where a new Board of Directors will be seated. She says that the vote on this issue will be conducted during this membership year so that if the vote fails, southern LAFCOs would be able to not participate in CALAFCO in the future. Ms. McDonald and the Orange LAFCO Executive Officer took the position that if the dues were to be paid next year before this vote is taken, the Commissions would most likely not support paying next year's dues. The Executive Director assured that the vote will be taken during this membership cycle. Ms. McDonald reports that a meeting is scheduled for Monday at the Santa Ana train station of the Southern California LAFCOs to discuss this new issue and invites any commissioner who is interested to attend.

Mr. Alsop reports that this proposal by CALAFCO's Board of Directors will require a bylaw change. There will be caucuses of the four regions at the annual conference in Palm Springs where each region would select its members. On the second day of the conference the selected members will be introduced to the membership as a whole.

Commissioner Biane states that CSAC identifies counties by urban, rural and suburban in weighing a county's vote. He believes that the regional concept would still stack the deck against the urban counties. He questions if other models were considered. Mr. Alsop states other models were considered, however, CALAFCO is so much smaller than CSAC and does not have the opportunities afforded to CSAC. He states a committee was formed including two southern California and two northern California members. That committee considered a variety of models and came up with the four-region concept. Los Angeles LAFCO expressed concern that CALAFCO as an organization which excludes southern California and a southern California LAFCO organization which excludes the other counties would not have the same efficacy as a statewide organization would. One of the comments made by the Executive Director is that the Regional Council of Rural Counties, whose offices house CALAFCO's office, is not invited to participate in a variety of things that CALAFCO is invited to participate in since it is not a statewide organization. The Executive Director made the point that one organization is better than two. Commissioner McCallon comments that an organization that represents only half the state is not effective and he is not sure that a regional approach will achieve the necessary representation.

Ms. McDonald comments that there is a burden for each region to participate in the process and to nominate members for participation in the legislative component of the CALAFCO organization. The bylaws will say that if a region fails to select its four representatives those positions go to a vote of CALAFCO as a whole. So if all positions are not filled, there is an opportunity to seek someone else in that category, providing some latitude. The issue of requiring representation from urban, suburban and rural counties works for three of the regions, but the Northern Area does not have an urban county.

Commissioner Mitzelfelt states that CALAFCO's support of SB375 was what originally started this discussion. He believes that a statewide organization, on its face, appears to have more standing before

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

the legislature. He states that if CALAFCO were to only take positions on legislation directly related to LAFCO law, it would solve the problem of supporting other types of legislation. Also, controversial legislation presents problems and some organizations require a higher threshold for approval, so a super majority could be required, such as a two-thirds vote.

Ms. McDonald states that one of the discussions was that a policy direction be given under the legislative policies and procedures that if there is significant controversy, CALAFCO as an organization would remain neutral. That would also require a super majority of the legislative committee and/or Board of Directors to approve such a position, which would change and alter the process. She says that SB375 was really the straw that broke the camel's back, although there had been a number of smaller issues prior to SB375.

Commissioner McCallon states that at CALCOG the same issue was encountered with SB406, the proposal to put an additional fee on VLF to pay for SB375. The southern California counties opposed it and the northern California counties supported it. CALCOG subsequently went forward and sponsored the bill. The position of the southern counties was that the statewide organization should only advocate and pursue legislation where its members agree, and if there is substantial disagreement that legislation should not be supported.

Ms. McDonald states that, while this is new information regarding the CALAFCO vote, the southern California LAFCOs will be moving forward to discuss their own association and how that would be implemented, including the legislative component, the educational component, etc., so that the southern California LAFCOs are ready to move forward by the beginning of the year.

Commissioner Biane questions how the representatives from each region would be assigned. Ms. McDonald states there would be one member from each category, Board member, Special Districts member, City member, and Public member, from each region. Mr. Alsop states it would increase the Board from 15 to 16. Commissioner Biane points out that the southern region is slightly less than half the state, but will only have 25 percent of the vote. He does not believe this is an equitable solution. Mr. Alsop states that the north believes that because the majority of counties are located in the north the north should have greater representation.

Ms. McDonald states there are some individuals who serve as the Executive Officer for a number of LAFCOs. There is one individual who represents six LAFCOs, giving that person six votes at the annual meeting. She says that a correction could be made that if there is opposition to a position that CALAFCO stays neutral. If that had been the case with the last issue none of this would have happened. She believes that a policy change is needed regarding support of legislation so that if a region opposes a particular legislation, CALAFCO would not take a position of support. Commissioner Mitzelfelt states that should be a condition of southern California staying on board.

Ms. McDonald states that all southern California representatives have resigned from CALAFCO committees. Ms. McDonald has resigned from the legislative committee until the end of the fiscal year. None of the southern counties are participating in the staff workshop.

She explains that if discussions fail to bring about agreement with CALAFCO, the southern counties will be able to move forward with a southern California LAFCO organization which would represent almost 50 percent of the population and almost 43 percent of the legislators in the state.

Commissioner Cox states she is surprised at the north versus south adversarial sentiment. She says she will be cautiously optimistic, but does not hold out a lot of hope that an agreement will be reached.

Ms. McDonald states that next month's agenda will include the request for reconsideration and the service review for the community of Yucca Valley. There will be no hearing in March and April's agenda will

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JANUARY 20, 2010**

include the proposed budget, Victorville, Helendale and possibly Adelanto proposals. The service reviews for the mountains will begin in April also.

COMMISSIONER COMMENTS

Chairman Nuaimi calls for comments from the Commission. There are none.

COMMENTS FROM THE PUBLIC

Chairman Nuaimi calls for comments from the public.

Susan Hulse says that, despite the action that she is bringing, the staff has been wonderful to work with. They have been not only professional and courteous but understand that this is an emotional issue for her. She was happy that Supervisor Biane's staff met with her. She says she attempted to meet with Chairman Nuaimi and she appreciates the courtesy of responding that he was not able to meet with her. She is very disappointed with the other commissioners and says that she has tried since December 14 on numerous occasions to meet with each of the commissioners and did not receive the courtesy of a response. She says that she realizes she did not vote for any of the commissioners present but she thinks it is important that the Commissioners know that they represent her and should have the courtesy to say that they cannot meet. She again emphasizes that the staff is top notch and have been very helpful.

Commissioner McCallon states for the record that he received no communication from Ms. Hulse asking for a meeting.

Commissioner Curatalo states that he did receive a request and she is correct. He promises to make every effort to respond in the future.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 12:29 P.M.**

ATTEST:

**ANNA RAEF,
Recording Secretary**

LOCAL AGENCY FORMATION COMMISSION

MARK NUAIMI, Chairman