

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JULY 21, 2010**

REGULAR MEETING

9:00 A.M.

JULY 21, 2010

PRESENT:

COMMISSIONERS:	Paul Biane Jim Bagley Robert Colven, Alternate Kimberly Cox	Neil Derry, Alternate Larry McCallon Robert Smith, Alternate Diane Williams, Alternate
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STAFF:

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

ABSENT:

COMMISSIONERS:

**Brad Mitzelfelt, Chairman
James V. Curatalo, Vice-Chairman**

9:00 A.M. CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION

Conference with Legal Counsel Existing Litigation (Government Code Section 54956.9(a)):
Susan Hulse v. All Persons Interested in Matter of LAFCO 3067A-F Et Al, Superior Court Case
CIVDS 1002077; and,

Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation (Government
Code Section 54956.9(c)).

Ms. McDonald announces that the closed session was canceled.

CONVENE TO REGULAR SESSION – CALL TO ORDER – 9:07 A.M.

Executive Officer Kathleen Rollings-McDonald calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

DESIGNATION OF CHAIRMAN

Ms. McDonald announces that Chairman Mitzelfelt and Vice Chairman Curatalo are absent; therefore another Commissioner must be designated as the Chairman for this meeting. Commissioner McCallon nominates Paul Biane to act as chairman for today's meeting, seconded by Commissioner Derry. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

Chairman Biane 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.

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PRESENTATION OF RESOLUTION OF APPRECIATION TO COMMISSIONER MARK NUAIMI

Chairman Biane reads and presents the resolution of appreciation to Commissioner Mark Nuaimi. Commissioner Nuaimi thanks the Commission and staff. Chairman Biane states it was quite an event to see Commissioner Nuaimi honored by the residents of the City of Fontana and wishes Commissioner Nuaimi well in his new position as Town Manager of the Town of Yucca Valley.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

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

- ITEM 3 Approval of Minutes for Regular Meeting of June 16, 2010
- ITEM 4 Approval of Executive Officer's Expense Report
- ITEM 5 Ratify Payments as Reconciled for Month of June 2010 and Note Cash Receipts
- ITEM 6 Review and Adoption of Resolution No. 3099 Reflecting the Commission's Approval and Determinations for LAFCO 3089 – Sphere of Influence Establishment for the Helendale Community Services District
- ITEM 7 Review and Approval of Update to Out-of-Agency Service Contract Administrative Guidelines and Application Form
- ITEM 8 Unaudited Year-End Report of Financial Activities
- ITEM 9 Approve Payment of Invoice 2010-06 for preparation of June 16, 2010 Hearing Minutes

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 reports outlining the recommendations for Items 6, 7, 8, and 9, 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 here.

Commissioner McCallon moves approval of the consent calendar, seconded by Commissioner Derry. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: Cox (Item 6 only). Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

DISCUSSION ITEMS:

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3107; AND (2) LAFCO 3107 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATED FOR CRESTLINE-LAKE ARROWHEAD WATER AGENCY – APPROVE STAFF RECOMMENDATION

LAFCO considers CEQA Statutory Exemption for LAFCO 3107 and LAFCO 3107 – Service Review and Sphere of Influence Updated for Crestline-Lake Arrowhead Water Agency (CLAWA). Notice of the hearing was provided through publication in a newspaper of general circulation, the *Alpenhorn News*. Individual notice was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in-lieu of individual notice the notice of hearing publication was provided through an eighth page legal ad.

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 here. Mr. Tuerpe points out the agency's boundary and sphere of influence on the overhead display. He says it is quite vast, including 111 square miles, and includes three community plan areas, Crest Forest, Lake Arrowhead, and Hilltop, as well as Silverwood Lake, Lake Arrowhead and Lake Gregory. He points out four distinct sphere areas outside the boundaries, including areas to the west, south, and east, which includes Snow Valley Ski Resort, and the area of Arrowhead Woods. He says Arrowhead Woods is almost coterminous with the boundaries of County

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service Area 70, Zone D-1 and the Arrowhead Lake Association. He explains that the Arrowhead Lake Association is the homeowners' association which owns Lake Arrowhead and Lake Arrowhead Dam. He points out a map depicting the state water contract agencies within the County. He points out CLAWA, San Bernardino Valley Municipal Water District to the south, and Mojave Water Agency as well as their spheres. He points out on the overhead display the land ownership including national lands which comprise two-thirds of the territory. He says that, in general, the San Bernardino mountains is one of the most densely populated mountain regions in the U.S. and is the most densely populated mountain urban area west of the Mississippi, including 35,000 full-time residents, not including the seasonal population. He says approximately a 66 percent population growth is projected through 2030.

Mr. Tuerpe points out on the overhead display the Arrowhead Woods area which is the most densely populated area. He states that there are roughly 20 public water agencies in CLAWA as well as a number of mutual water agencies. He points out on the overhead display Lake Silverwood, which is the east branch reservoir of the state water project. CLAWA is the wholesale provider and treats and transports water within its boundaries to the retail agencies, although some agencies do additional treatment. He says that paramount is the reduction of 40 percent in allocation placed by the Department of Water Resources and previously it was 30 and 35 percent. He indicates that, even with the 40 percent allocation, supply is adequate for the demand currently within CLAWA's boundaries. However, by adding the Arrowhead Woods area, supply would not meet demand unless the 40 percent allocation is increased. He explains that when the original legislation was proposed Arrowhead Woods was included. He says the major property owner elected to have the area removed from CLAWA's boundaries and the amended legislation removed it, however the original entitlement amount of 5,800 acre-feet remained. He says the landowner wanted it removed because a belief existed in the late 1960s and early 1970s that the groundwater would be adequate for consumptive uses. What has resulted is a lesser population paying for that 5,800 acre-feet.

Commissioner Cox states that the State Water Project allocation has been increased to 50 percent. She explains that changes from year to year and hopefully in the next few weeks it could be increased to 55 percent. Mr. Tuerpe states that a few months ago it was it at 30 percent, increased to 35 and then 40.

Mr. Tuerpe states that during the current drought, the level of Lake Arrowhead dropped dramatically. Subsequently the Department of Water Resources reconfirmed the original permit for Lake Arrowhead that the use of the lake is for its recreational purpose, restricting the taking of water for consumptive use. However, Arrowhead Woods is not within the boundary of CLAWA, so pursuant to CLAWA law and its contract with the Department of Water Resources, CLAWA cannot provide water outside its boundaries. A solution was reached in 2005 whereby a short-term agreement was reached between CLAWA, Lake Arrowhead Community Services District (LACSD) and San Bernardino Valley Municipal Water District (MUNI) providing MUNI water to Arrowhead Woods. He explains that the reservoir is a regional reservoir and CLAWA purchased the water from MUNI, LACSD then purchased the water from CLAWA and CLAWA transported it through its own pipelines to LACSD. This short-term solution will expire in 2020 or when the 7,600 acre-feet are used up. He says that a more permanent solution is needed for provision of water to this densely populated area.

Mr. Tuerpe states that CLAWA's debt is unusually low for a state water contractor. Only about \$500,000 exists related to improvement districts and that debt will mature in 2014.

He refers to government structure options, the first being annexation of Arrowhead Woods. While CLAWA is willing to work with the area, providing an alternative means for supplemental water, its board has stated in writing that it strongly opposes annexation of the area into its boundaries for the following reasons: 1) It would cause a population shift resulting in a realignment of its divisions for board representation. LAFCO staff has pointed out that government agencies are evolving entities and reduction, expansion, and changes within their own boundaries are common occurrences. 2) The imported water may not be sufficient to supply Arrowhead Woods. He states that currently supply is adequate for demand and if the

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allocation is increased to 80 or 90 percent there would be adequate supply. He says that pursuant to CLAWA's rules and regulations, any area annexed into its territory would pay for back standby charges and property taxes. In 2003 a rough study was done indicating that the cost for annexation of Arrowhead Woods would be \$40,203,000. Financial statements indicate \$50 million in debt to the Department of Water Resources. Adjusted for inflation, the cost would be \$47,000,000, so a general statement could be made that that annexation could remove the future obligation to the State Water Contractor. He says this would benefit the residents two-fold, in that those in Arrowhead Woods would have the ability to access supplemental water on a permanent basis, and those within CLAWA's boundaries could have the state water contract debt reduced or eliminated.. This is a very strong government structure option. He says another option would be to consolidate with a bordering state water contractor; however, those spheres were established in the early 1970s based on hydrological divides, so it would not be feasible. Consolidation with all public water agencies in the mountain area is a possibility, which could provide for economies of scale and would give a single voice regarding water concerns for this part of the mountain. Another option would be to transfer retail water service to LACSD. He points out the four distinct improvement zones on the map and says that at that time CLAWA was the agency of last resort in the area because LACSD's boundaries did not include that area. After the improvement districts were formed, LACSD's boundaries expanded to include the improvement districts. Transfer of retail water services of CLAWA to LACSD would leave CLAWA to perform its core function of wholesale water to the mountaintop. He says it could also be the entity for regional cooperation of distributing reclaimed water. Although it would not actively engage in it, it could assist. He says that LAFCO staff recommends maintenance of the status quo, and, in the long run annexation of Arrowhead Woods would provide the area with permanent accessibility to supplemental water.

Mr. Tuerpe states neither LAFCO staff nor the agency is recommending any modifications to the agency's sphere of influence. He says the agency strongly opposes annexation and the sphere of influence is defined as the plan for the future boundary or service area of the public agency as decided by the Commission. He emphasizes that this is a densely populated area that will need a supplemental source of water in the future. Removing that area from the sphere of influence would create a pocket in the County of a densely-populated area that would be surrounded by the boundary and sphere of a state water contractor, but not be within it. In addition, there is a three-part agreement where CLAWA is involved in indirect provision of water to the area, therefore it should remain within its boundaries. He points out that the western and southern areas, as well as the area east of Snow Valley are either wholly or substantially surrounded by the state water contractor. LAFCO staff believes that that contiguity of the sphere of influence within the state water contractor should be maintained.

Mr. Tuerpe states that the functions and services of the District include water, including acquisition of wholesale, retail and domestic. He says LAFCO staff and the agency recommend affirmation of these services. He says the Commission's environmental consultant has reviewed the sphere of influence update service review and determined that a statutory exemption is appropriate. LAFCO staff recommends that the Commission take the actions outlined in the staff report.

Commissioner Cox commends Mr. Tuerpe for his work on this review, as the subject of water is very complex.

Commissioner Derry moves approval of the staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3149; AND (2) LAFCO 3149 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR RIM OF THE WORLD RECREATION AND PARK DISTRICT – APPROVE STAFF RECOMMENDATION

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LAFCO considers CEQA Statutory Exemption for LAFCO 3149; and LAFCO 3149 – Service Review and Sphere of Influence Update for Rim of the World Recreation and Park District. As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, the *Alpenhorn News*. Individual notice was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in lieu of individual notice the notice of hearing publication was provided through an eighth page legal ad. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those agencies and individuals 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 here. She states this agency includes the communities of Crestline, Lake Arrowhead, Running Springs, Arrowbear and Green Valley Lake. She says that within this boundary are a number of existing park providers, including the Running Springs Water District, Arrowbear Park Water District, and CSA 70 – Improvement Zone D-1.

Ms. McDonald states that Rim of the World Recreation and Park District was formed by action of the Commission in 1993. It was created from an existing improvement zone of CSA 70. In 1993 the residents of the community wished to have local control of its park and recreation services and were successful in forming the District, which succeeded to the existing \$10 per parcel assessment for that improvement zone. She says most of the territory within the boundaries of this District is public land, with private lands limited to about 26 percent of the total territory. She points out the development pattern along the roadways and highways. She indicates the two roads into the mountains from the south and one road to the north, which are the only ways in and out of the mountains. She indicates a projection of the permanent population that would be in need of recreation and park services. It is anticipated that this area would have about 51,000 permanent residents by 2030. Contrary to the Water District's needs, which must address seasonal populations, park and recreation services are confined to the permanent population for playgrounds, ball fields, and childcare. She points out that there is only one facility in the Crestline/Crest Forest community, a leased park and ball field in the San Moritz/Lake Gregory area. She says the Lake Arrowhead community has several facilities, including two childcare sites, and Arrowbear and Running Springs have several facilities. She indicates that the financial revenue stream is not reflective of services provided, especially for the Crestline community. She indicates on the overhead display the location of each of the facilities within the District.

Ms. McDonald states LAFCO has received an application from LACSD for the activation of flood control and park and recreation powers. She points out the locations of facilities operated by that District which would be affected by that proposal.

With regard to financing, Ms. McDonald states the financial constraints and concerns of the District have existed for at least the last ten to 15 years. She says the financial resources of this District, up until an election in April of this year, did not fully cover its needs. She refers to a chart within the staff report, which outlines the deficit spending by this District for many years. Presently the District has a number of outstanding issues and highlighted on the chart are two debt issues, one for \$600,000 to purchase a building in 2000-2001, even though a negative fund balance existed that year, and the issuance of a loan in 2001-2002, which was used for operational purposes. The Twin Peaks ball field was used as collateral for that loan in order to meet operational needs. She says the last audit for this District was done in 2005-2006. She emphasizes that it is difficult to assess the financial health of an agency without current audits and it is of concern to LAFCO staff that the agency has adopted budgets and made determinations regarding funding and expenditures without the full picture of the financial position of the agency. She states that, also of concern to LAFCO staff, is that Park and Recreation District law requires that the agency have a finance officer. That law sets forth specific requirements for the position, including that it must be bonded and has the direct obligation to provide for a financial accounting system and auditing so that the agency knows its financial position. LAFCO staff has discovered that the District has never had a

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finance officer.

Ms. McDonald points out on the overhead display the budgets of the District from 2005-2006 through the current fiscal year, which indicate the negative balance in the County treasury. Information has been received by LAFCO staff recently that that debt is higher based upon interest to be accrued against the amounts owed to the County Auditor. The District has had a contract for the processing of payroll and benefits that requires that if there is a deficit, interest must be charged. She indicates the current District debt to the County includes a debt to the Registrar of Voters of \$104,000, which is related to the failure to pay for elections for a 2005 Board seat, a failed assessment in 2007, as well as an outstanding balance for the April 2010 ballot measure for the increase in assessment. The District also owes the Auditor/Controller \$153,000. The last quarter payment for the interim Special District contract for the General Manager position is also outstanding. She says the District has taken steps over the last several years to address some of its issues, most currently was the release of the General Manager by contracting with County Special Districts for the management of the District. The District has one full-time employee who works in coordination with Special Districts staff to manage the District. She notes that the contract with Special Districts expired on June 30, 2010 and the contract with the Auditor/Controller expired June 30, 2010, so there is no existing ongoing contractual relationship between the entities. She says negotiations are being held to address those concerns and move forward and that the Auditor/Controller requires the District to provide deposits in order to pay payroll.

Ms. McDonald reports that in April the residents within the District voted to approve a \$12 per parcel increase in the assessment to total \$22. She says there is no built-in inflation factor, which has been a problem for the District since its inception. LAFCO staff believes that within 10-20 years the District will be in the same position it is currently. Projections identify that the District would use the funds to pay off the District's debt, provide for deferred maintenance, set aside for capital improvements, and to fulfill its obligation to perform audits now four years in arrears. LAFCO staff has learned that the County will not allow for a three-year payment of amounts owed and has requested full payment. LAFCO staff remains concerned that there is no clear picture of the financial position of the District without an audit. She notes that in one year there was a \$296,000 capital adjustment for debts owed, so many of the audits were in error after this \$296,000 correction is added.

Ms. McDonald states LAFCO staff has developed an outline that will allow the District the opportunity to correct itself and move forward with the implementation of the new assessment. She says that staff proposes that the Commission affirm the sphere with very specific criteria and conditions, including that for the next five years the District is required to provide the Commission annually with a copy of its proposed and final budget, its mid-year budget review, its financial reports and copies of the audits presented to the District. In addition, LAFCO staff does not believe that the District should prolong the completion of its audits out to 2013, but that the audits should be done within the next two years so that the District is clear on its financial position. The County Auditor is to be provided with a copy of the District's audits and budgets as is required by law and the State Controller is to be provided with copies of all audits required by law. Finally, the District is to provide the Commission with an outline of how it intends to manage the District according to the requirements of state and park and recreation district law. Most importantly, it must appoint a finance officer and that that officer is to be bonded and must fulfill the requirements of state law to the District.

Ms. McDonald summarizes the recommendations outlined in the staff report. She says that if, during the five-year period identified in the staff report, the District does not adhere to the financial requirements and continues to operate in a deficit situation, staff would return immediately to the Commission for a service review for a change in government for the agency. She notes that in the past LAFCO staff has fended off proposals to detach from this District, most importantly the Crestline community which believed it did not receive the range of services needed for the revenues paid into the agency. LAFCO staff's response was that the detachment of Crestline would decimate the District at a time when it needed to provide for future services. She says that today's review shows that services to the Crestline community have not been

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provided the full of range of services, and in fact, the childcare that was available has been removed due to lack of support.

While the District deserve the opportunity to try to use the increase in assessment to rectify its revenue stream, LAFCO staff does not believe it should be given a full five years without reporting requirements back to the Commission. Staff does support giving the District the opportunity to move forward.

With regard to services and functions, the District was simply stated to have the function of park and recreation. She says it is proposed that the Commission clarify its real functions as park development, recreation, maintenance and childcare.

Chairman Biane calls for questions from the Commission.

Commissioner Cox questions the statement that detachment of the area of the LACSD would results in 52 percent loss of primary revenue source. She says that LAFCO currently has an application from LACSD to form a park and recreation District or take those powers. She asks if that happens prior to the next review for the District, where it would leave the District. Ms. McDonald responds that the issue to be presented in September is to review the request of the LACSD for both powers. She says there is some confusion regarding park and recreation as the Rim of the World Park and Recreation District has provided services for over 20 years, the new introduction of CSA 70 Improvement Zone D-1 into the park and recreation realm in that it is proposing to develop and maintain a park in an area already part of the Rim of the World Park and Recreation District. She says that area is already part of LACSD and as a community services district it asserts that it is the most appropriate agency to provide park and recreation and flood control services. She says assessment revenues from the overall Lake Arrowhead community would be detached if that service were activated. Commissioner Cox asks if that power is activated would the Commission need to revisit staff's recommendation on the current MSR. Ms. McDonald states there are currently two and Lake Arrowhead CSD proposes to take one of the two, with the potential for contracting with Rim of the World to operate a park that is under the auspices and ownership of Lake Arrowhead CSD.

Commissioner Colven refers to the recommended parameters for the District to meet and asks what the enforcement of that would be. Ms. McDonald explains that if there is a failure to meet any of the conditions staff would return to the Commission and request that the service review be immediately reinitiated by the Commission to address the failure to meet the conditions.

Chairman Biane refers to the three-year plan that the Auditor/Controller is finding unacceptable and asks when was the last communication with the Auditor/Controller. Ms. McDonald states that LAFCO staff met with Auditor/Controller staff yesterday. She says there are other discussions regarding potential for a loan to be paid over three years; however, the Auditor/Controller requires that the debt be paid now. There are no funds to fund salaries and benefits so there is a need to work out an arrangement. She says the negative balance must be cleared immediately. Commissioner Derry states his staff is working with the District on ways to meet its obligations. Ms. McDonald states the Auditor/Controller was not aware of the amounts owed to the Registrar of Voters or Special Districts. The District also owes an amount to the Rim of the World Unified School District.

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

Laura Dyberg, Board member of the Rim of the World Recreation and Park District, says her history with the District goes back to 1983 when she was a citizen volunteer laying sod on one of the ball fields in Running Springs. Subsequent to that in 1995 she became a recreation supervisor for the District and that position was terminated in 2002 when the first measure failed to pass. She says that at that time the District had operated almost 20 years without an increase in the \$10 per parcel. She says the District has serious financial difficulties related to having not enough money to deal with inflation for the area served

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where the population is almost doubled. She says, as a Board member, what is missing from the report is the passion of the community for the Park District and dedication of the staff and the Board to continue the services that are relevant to what a Park District is about. She contends that, while facilities are not available in every area of the community, everyone from Crestline to Green Valley Lake participates in swimming lessons and dog obedience classes and uses the fields, with children from Crestline playing ball in Running Springs. She says the staff provides much with little and has met the needs of the community with volunteer services. She says the passion of the community shows by its passing of the \$12 increase with a 70 percent turnout. She adds that the community believes in the District and its board. She says the board has the ability to look at the business aspects of the District as well as the recreational aspects. She says that the Board has the depth to go forward and do the responsible things necessary with the money available. She feels confident that with the financial support of the community the District can function without a problem. Chairman Biane asks that if she, as a Board member, would support today's recommendations. She says that she supports it and understands it. She points out that the District does serve the community and she worked at the District when the issue with Crestline came up. It is her opinion that this was a very isolated small group that wanted lights at the ball field. She says the District serves a broad area, 110 square miles. Commissioner Colven asks if the community understands the financial jeopardy this District faces. He points out that one possibility would be dissolution of the District. Ms. Dyberg states that she believes the community understands because the first attempt to raise additional funding in 2002 asked for \$45 with plans for extensive development. The community said no and second attempt in 2007 was \$15 and the community said no. The last attempt in the amount of \$12 was successful because the District informed the community that if this did not pass the District would close its doors. She says 70 percent of the community turned out to vote in favor.

Ms. McDonald points out that regarding dissolution, dissolution would anticipate that the independent special would be dissolved and a subsequent entity would succeed to the operations.

Commissioner Smith asks if the change in the District's powers would be a cost to the District. Ms. McDonald explains that it would not; it simply is a reflection of the District's actual powers.

Jeff Rigney, Director of Special Districts, explains that the Special Districts Department has a contract through December 2010 to manage this District. He says it is important that the District learn from what has happened over the past several years. He believes that the District has strong management and a strong board in place now. He says Special Districts is interested in assisting because if the District does not manage its problems it is likely the management will end up with Special Districts. He says it is better for Special Districts to help now. He points out that, since Special Districts has been assisting, costs have been reduced by over \$100,000, childcare is starting to show a profit, state grants have been closed out, the main building is fully occupied, all contracts are up to date, all audits have been scheduled to be completed, deferred maintenance and improvements have started, including renovation of Twin Peaks ballpark, District-wide maintenance schedule has been implemented, senior center agreements have been reviewed, relations with Rim of the World School District are positive, and, for the first time, the Registrar of Voters was fully paid for the last election. He says that what speaks volumes is the community's interest by approving that special tax by over 70 percent. He mentions that the recommendations by LAFCO staff today are more than fair. Commissioner Bagley asks if there are user fees in place that would help with the deficit spending. Mr. Rigney responds that there are fees for the various programs and the District now will not offer a program that does not pay for itself. Commissioner Bagley states this is a tough economy and he agrees that if a program is not paying for itself it should be eliminated. Ms. McDonald states that, historically, one of the primary activities is before and after school childcare, which is an enterprise function. Facilities are located at school sites, however expenses have always exceeded revenues. She says that the current District manager is working to rectify that situation so that if there is a reduction in the number of children, the number of childcare providers would also be reduced.

Mr. Rigney states that Special Districts has done a six-year pro forma on the finances and even with moderate increases across the board the District will look at \$300,000 fund balances, going up to \$400,000

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by 2015 which is a financial state that this District has never achieved.

Commissioner Derry states there has been a dramatic turnaround in the District in the last six months, not only with the election but with the efforts of Special Districts. He says his office has been working with the District in helping them resolve the financial crisis. He states he is very comfortable with the direction the District is going in and thanks Reese Troublefield for doing double duty managing this District as well as the Special Districts in the Big Bear region. He says Mr. Troublefield has been very humble in this process but has been a great asset to the District.

Chairman Biane closes the public hearing.

Commissioner Derry moves approval of the staff recommendation, seconded by Commissioner McCallon. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

SERVICE REVIEW FOR COUNTY SERVICE AREA 70 ZONE D-1 (LAKE ARROWHEAD DAM); AND, CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3144; AND (B) LAFCO 3144 – ACTIVATION OF FLOOD CONTROL AND PARK AND RECREATION POWERS FOR LAKE ARROWHEAD COMMUNITY SERVICES DISTRICT – CONTINUED TO THE SEPTEMBER 15, 2010 HEARING

LAFCO considers Service Review for County Service Area 70 Zone D-1 (Lake Arrowhead Dam); and, Consideration of: (a) CEQA Statutory Exemption for LAFCO 3144; and (b) LAFCO 3144 – Activation of Flood Control and Park and Recreation Powers for Lake Arrowhead Community Services District.

Commissioner Derry moves approval of the staff recommendation, seconded by Commissioner Cox. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

PRESENTATION BY WILLIAM CHIAT, EXECUTIVE DIRECTOR OF THE CALIFORNIA ASSOCIATION OF LAFCOS (CALAFCO) ON REGIONAL REPRESENTATION

William Chiat, Executive Director of CALAFCO, says that 2011 will mark the 40th anniversary of CALAFCO. He says that for 39 years San Bernardino LAFCO has been a valued and active partner in that association. He says San Bernardino's contributions include serving as Board members, providing staff expertise on the legislative committee, workshop committee and other areas. He says Ms. McDonald has provided invaluable expertise in her knowledge of the history of LAFCO law. He points out that San Bernardino LAFCO funded CALAFCO Counsel, Clark Alsop, for many years. He says CALAFCO, as an association, has not thanked San Bernardino LAFCO enough for its support and again thanks the Commission on behalf of the CALAFCO Board. He hopes that the partnership will continue for another 40 years. He says organizationally the last 18 months has been tumultuous to many members as the organization goes through difficult change. He explains that change needed to happen and the association is grateful to the LAFCOs of southern California who initiated this change to the structure of the organization and contributed thinking and expertise to help the Board think through options of what that change could be. He says California is a diverse state with a great variation in perspectives, needs, issues, and size from county to county. He points out that earlier this month the CALAFCO board began reflecting that diversity. He explains that with an at-large approach to Board elections the Board has, on occasion, been out of balance. That key dilemma was raised by the Southern California LAFCOs and others, and ultimately the destination was reached that provides balanced representation on the Board of Directors. He contends

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that it is not perfect, but it significantly changes the structure of the CALAFCO Board and the association and brings a whole new balance on decisions on policies, directions and services. He says July 9 ended a long process with an overwhelming show of support by the membership to the structural change recommended by the Board of Directors. He explains that 53 of the 57 CALAFCO members voted and 51 of those voted in support. Solano and San Bernardino voted no and four LAFCOs did not vote. He says that during that time he attended a number of LAFCO meetings to explain the change and it was gratifying to hear the support of LAFCOs across the state of not only the change in structure, but the recognition that the Board process within CALAFCO had resulted in the unbalanced board. He notes that most memorable was a discussion with Contra Costa LAFCO where one of its commissioners wanted to be sure that his thoughts were relayed to southern California. He had planned to vote no on the recommendation because he did not truly understand the issue. Upon review, he understood that the structure of the organization virtually assured that it would be difficult for southern California to have adequate representation. He therefore changed his vote and commented that he, as a commissioner, recognized that imbalance and voted for it so that southern California could be adequately represented.

Mr. Chiat states that the Board wanted to take into account geography, population, and maintaining the balance of Special Districts, City, County and Public members on the Board. He says the four regions were then developed and approved by the membership. He says this representation still provides an additional voice for southern California by providing it three times the representation of the other areas. He states that the Board believed there was a sense of urgency to create the change and did a mailed ballot so that the new elections could be implemented at the next CALAFCO annual meeting in Palm Springs. He said the Board unanimously believed there should be a fresh Board and agreed to put all 16 seats up for election. He notes that a number of current board members will be running against each other. He explains that each of the regions will nominate and elect their own four members through regional caucuses at the conference.

He explains that in the last two years virtually every bill sponsored by CALAFCO has been signed into law. The only bill that was vetoed was Assemblymember Knight's bill that was initiated by Riverside LAFCO. This year the same bill was submitted with slight modifications and was successful. He refers to the important omnibus bill, which was signed into law a few weeks ago. He says that CALAFCO has taken an oppose position to AB853 (Arambula) which would now require LAFCOs to look at inhabited unincorporated communities and identify the water, wastewater and fire protection service efficiencies when performing a service review beginning in 2011. He explains that the legislative committee meets on Friday to determine if it wishes to change its position, but many LAFCOs have written letters of concern, including San Bernardino. He says this is an example of why working together in a statewide organization has been important. He notes that many pieces of legislation never got out of committee because CALAFCO opposed them. An example of that is the bill to place redevelopment agencies under LAFCO purview. With regard to AB853, the legislators were very interested in what LAFCOs had to say. He points out that if one is not part of a statewide organization often one is not invited to weigh in on the issues. He says CALAFCO provides that authority and ability to speak on behalf of all LAFCOs.

Mr. Chiat says legislation is only a small part of what CALAFCO does. Last year a very successful conference was held in Yosemite and this fall Riverside LAFCO has put together an excellent program in Palm Springs which includes a tour of the wind energy farms. He says he looks forward to hosting the conference in Napa, his home, in 2011. In addition, the staff workshop next year will be held in Ventura. He refers to CALAFCO's website which is packed with valuable information.

He concludes by stating that the 57 LAFCOs have accomplished much together and he looks forward to seeing that continue for many more years. He recognizes that this process has been difficult and he hopes that San Bernardino LAFCO sees that the members support the ideals that are important to it. He says that CALAFCO has missed San Bernardino's participation in CALAFCO and would like to see its perspectives and needs represented on the CALAFCO Board of Directors.

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Chairman Biane calls for questions from the Commission.

Commissioner Cox comments that representation is three times that of northern California; however, she says that what is lost in this discussion is the population difference. She says southern California represents the majority of the population in California. She believes an "us versus them" mentality must end; however, she will not soon forget the animosity expressed at the last meeting she attended in September. She says there was an unbelievable display for those who are trying to do the best for their constituents. She believes the culture of an organization starts at the top and this was unacceptable. Mr. Chiat thanks Commissioner Cox and says that the Board, following that meeting, was very introspective regarding statements that were made. He points out that the membership supports the reorganization and he hopes that a message was received by those LAFCOs that were offended that all LAFCOs must work together.

Mr. Chiat states that some have questioned how the Board would begin making decisions in the future that are more representative of the membership. That will be a topic of discussion at the conference and he hopes San Bernardino LAFCO will continue to participate and share its voice.

Chairman Biane states that he believes it is important for San Bernardino to participate in CALAFCO; however, there is an inequity to southern California counties. He says he appreciates the movement in the right direction; however it is not as far as it should have gone. He points that the issue that appears to have torn the organization apart is the position taken on AB375. He says that there should be a higher vote threshold than the majority for something like this. He asks how this might be handled differently in the future. Mr. Chiat states that the Board has agreed that it must look at how it makes decisions on legislative policy and, more importantly, how disagreement within the membership will be addressed.

Ms. McDonald expresses her thanks to Mr. Chiat for coming to San Bernardino today.

DETERMINATION ON CONTINUED PARTICIPATION IN THE CALIFORNIA ASSOCIATION OF LAFCOS (CALAFCO) – APPROVE STAFF RECOMMENDATION

LAFCO considers Determination on Continued Participation in the California Association of LAFCOs (CALAFCO). 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 here.

Ms. McDonald states funds have been set aside within the budget for the annual dues. She says staff recommends that the Commission continue its participation in CALAFCO in conjunction with the Coalition of California LAFCOs (CCL). She says that CCL provides strength to the Commission that it needs and one of the key issues will be establishing the positions related to legislative positions at CALAFCO. She believes that in the legislative process and representing a unified force is important and continued participation in CCL will provide that.

Commissioner Smith asks if the Commission's letter to CALAFCO stating that not enough was being done was well received. Ms. McDonald states she does believe it was well received. She says there is something to be said for working within the organization.

Commissioner Colven asks if Imperial County has weighed in. Ms. McDonald states Imperial County does support CCL, but she is unaware if they are going to participate in CALAFCO next year. She says they are a strong participant in CCL.

Commissioner Williams moves approval of the staff recommendation, seconded by Commissioner Smith. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his

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stead).

SELECTION OF REGULAR AND ALTERNATE REPRESENTATIVES FOR COALITION OF CALIFORNIA LAFCOS

Ms. McDonald states the first official meeting of CCL will be on August 16, 2010. She says that at the June 17 summit CCL adopted its bylaws and mission statement. She asks that the Commission select its voting member, which must be a commissioner and to select an alternate, which can be a commissioner or staff member. Ms. McDonald opens the nominations for voting member. Commissioner McCallon moves to nominate James Curatalo, seconded by Commissioner Cox. Commissioner Williams asks if Commissioner Curatalo is interested and willing. Commissioner McCallon states he seems to be very interested. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

Commissioner McCallon volunteers to serve as alternate. Commissioner Smith moves to nominate Commissioner McCallon as alternate, seconded by Commissioner Cox. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

Chairman Biane expresses the desire to remove himself from active participation in CALAFCO. Ms. McDonald states that at the August CCL meeting discussion will be held regarding those who are interested in serving on the CALAFCO Board. She explains that there will be a Public, Special District, City and County member from southern California. She says if any of the positions are left vacant the opening will go to all LAFCOs for election.

PENDING LEGISLATION REPORT

Ms. McDonald reports that AB853 was, in fact, amended during the interim between hearings. She met with Chairman Mitzelfelt to review the changes and a letter was sent reiterating the Commission's position on that bill because of its unfunded mandate status. She says that it was stated that the Commission is not allowed to charge for service reviews and those costs are apportioned to all who pay into LAFCO. She asks that the action of the Commission chair opposing AB853 be ratified.

She refers to AB2226 (Huffman), which is now jointly introduced by Assemblymember Arambula and is coauthored by Senator Pavley and Senator Wolk, which is in response to State Water Project water transfers from agricultural to municipal use. She says a newspaper article indicated that, because of Mojave Water Agency's purchase of rights from Kings County, the Central Valley was concerned about State Water Project agricultural water being sold. She says this bill will make that process more difficult, if not impossible, because State Water Project agricultural water will not be allowed to be transferred for municipal use unless the Department of Water Resources has a report and findings indicating that it does not detract from the economy in the area to perform its function. She emphasizes the importance of this piece of legislation to southern California water agencies, which has now passed out of the Senate and is now in Appropriations, where it is scheduled for hearing on August 2, followed by corresponding discussion in the Assembly. Commissioner Cox moves that the Commission authorize staff to issue and "oppose" letter to this bill. She says that, for the future, transfers such as this are the only possibility of gaining additional water in southern California to feed its growing population. She adds that she has a secondary issue with a law prohibiting the exercise of free rights of a business owner. The Mojave Water Agency purchased this water from an individual who grew almonds in the Central Valley and elected to take some of his groves out of production and transfer the water to a municipal use. She says it is something that will benefit the desert community for years, especially in light of the Wanger decision and the restrictions on

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transfers of water that can pass through the California Bay Delta. She believes it is very shortsighted to pass legislation to preclude those future transfers. Motion seconded by Commissioner McCallon. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

Commissioner Williams moves to ratify the prior action of the Commission with regard to opposition of AB853, seconded by Commissioner McCallon. Chairman Biane calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Biane, Cox, Derry, McCallon, Smith, Williams. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Mitzelfelt (Commissioner Derry voting in his stead).

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that she has provide the Commission with the County Grand Jury Report on two items that affect LAFCO. With regard to Barstow Cemetery District, the Grand Jury reviewed and made recommendations requiring that LAFCO and the County Auditor meet with the Barstow Cemetery District General Manager and Board of Directors to review its responsibilities and obligations in operating the District. She says that, since this is a recommendation and requirement of the Commission, staff will present an official response at the September hearing for adoption, following staff's meeting with representatives of the District. Commissioner Williams asks how many cemetery Districts are in San Bernardino County, and are service reviews done on those. Ms. McDonald states the only other cemetery District is Twentynine Palms Cemetery District and a service review was done. She explains that the Needles Cemetery District was dissolved 15 years ago, because as an independent agency, it had utilized its endowment funds illegally; therefore, in order to rectify that situation, the District was dissolved and its next year's tax proceeds were used to establish an endowment fund with the City of Needles. She says the County operates a cemetery in Twentynine Palms under the same provisions as the cemetery Districts. She explains that, as the Searles Valley service review showed, the County has owned a cemetery in Trona that has been operated by a local non-profit. Commissioner McCallon states that it is disturbing that they knew nothing about transfers from the endowment funds and the Auditor/Controller made those transfers. Ms. McDonald states staff has asked about that and it is a question of getting pieces of paper and not flagging systems. She says the Auditor/Controller is resolving those issues since they have been brought to light.

Ms. McDonald reports that the Commission was provided with a copy of the County Grand Jury's review of the City of Adelanto. She says the Grand Jury hired an outside auditing firm to review the statements made in the service review regarding the potential peril for the City of Adelanto regarding its financial position, and the Grand Jury concurred with all statements made and indicated that there are significant financial constraints to the City of Adelanto. She explains that this is simply an information item.

Ms. McDonald states she has provided the Commission with information on the CALAFCO annual conference, scheduled for October 6-8 in Palm Springs. She will attend October 6 and 7.

Ms. McDonald states she has provided the Commission with information on the CALAFCO achievement awards. Submissions are due September 8. Further information will be provided at the August 18 retreat. Awards include Outstanding CALAFCO Member, Distinguished Service Award, Outstanding Commissioner, Outstanding LAFCO, and Project of the Year. She says that, while its outcome was negative, she believes the Commission should nominate the City of Adelanto Service Review for Project of the Year. She says the scope of the project and information provided was substantial.

Ms. McDonald reminds the Commission of the retreat to be held on August 18 in the Joshua Room of the County Government Center. Areas of consideration will include review of policies and procedures,

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evaluation and recruitment process for the Executive Officer position, as well as several other items.

Ms. McDonald states the September hearing will be held in the City of Victorville for the conclusion of the Victorville Water District sphere of influence expansion, discussion of CSA 42 and the Oro Grande community. The September hearing will also include the Lake Arrowhead Service Review, establishment of the Barstow Fire Protection District as a subsidiary District of the City of Barstow, dissolution of County Service Area 17, a small annexation to County Service Area 42 for the Riverside Preparatory Academy, and a small item regarding the City of Yucaipa. The next hearing will be in November.

Commissioner Cox states she wishes to nominate Commissioner Pearson for the CALAFCO Distinguished Service Award. Chairman Biane directs staff to prepare submissions for CALAFCO Distinguished Service Award for Commissioner Pearson and Project of the Year for the Adelanto Service Review.

Commissioner Williams recommends submission of Ms. McDonald for the Outstanding LAFCO Professional award, considering her LAFCO legacy. Ms. McDonald thanks the Commission. Chairman Biane directs staff to prepare that submission.

COMMISSIONER COMMENTS

Commissioner Colven comments that he has recommended Palm Springs many times for the annual conference and he is happy to hear it is being held there this year.

PUBLIC COMMENTS

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

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 11:10 A.M.**

ATTEST:

ANNA RAEF, Recording Secretary

LOCAL AGENCY FORMATION COMMISSION

PAUL BIANE, Chairman