

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

REGULAR MEETING

9:00 A.M.

AUGUST 17, 2011

PRESENT:

COMMISSIONERS:	Jim Bagley	Brad Mitzelfelt, Chairman
	Robert Colven, Alternate	Janice Rutherford
	Ginger Coleman	Robert Smith, Alternate
	James Curatalo, Vice-Chairman	Diane Williams, Alternate
	Neil Derry, Alternate	

STAFF: **Kathleen Rollings-McDonald, Executive Officer**
 Clark Alsop, Legal Counsel
 Samuel Martinez, Assistant Executive Officer
 Michael Tuerpe, Project Manager
 Anna Raef, Recording Secretary
 Rebecca Lowery, Deputy Clerk to the Commission

ABSENT:

COMMISSIONERS: **Kimberly Cox**
 Larry McCallon

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:06 A.M. – SAN BERNARDINO CITY
COUNCIL CHAMBERS**

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

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

1. Approval of Minutes for Regular Meeting of July 20, 2011
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of July 2011 and Note Revenue Receipts

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

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

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

PUBLIC HEARING ITEMS

CONSENT ITEMS DEFERRED FOR DISCUSSION – None

SERVICE REVIEW FOR THE BEAR VALLEY COMMUNITY WHICH INCLUDES THE REVIEW OF COUNTY SERVICE AREA 53 ZONES A, B, AND C, CITY OF BIG BEAR LAKE DEPARTMENT OF WATER AND POWER, AND THE BIG BEAR AREA REGIONAL WASTEWATER AUTHORITY AND SPHERE OF INFLUENCE UPDATE/ AMENDMENT REVIEWS FOR THE FOLLOWING: □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3125; AND LAFCO 3125 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF BIG BEAR LAKE □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3109; AND LAFCO 3109 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BIG BEAR VALLEY RECREATION AND PARK DISTRICT □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3112; ALAFCO 3112 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BIG BEAR FIRE PROTECTION DISTRICT □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3129; LAFCO 3129 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BIG BEAR MUNICIPAL WATER DISTRICT □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3124; AND LAFCO 3124 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 53 □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3130; AND LAFCO 3130 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BIG BEAR AIRPORT DISTRICT □

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3150; AND LAFCO 3150 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BIG BEAR CITY COMMUNITY SERVICES DISTRICT – LAFCO 3125 CONTINUED TO THE NOVEMBER 2011 HEARING AND THE BALANCE OF ITEMS WERE APPROVED PER STAFF RECOMMENDATIONS

LAFCO conducts a public hearing to consider Service Review for the Bear Valley Community which includes the review of County Service Area 53 Zones A, B, and C, City of Big Bear Lake Department of Water and Power, and the Big Bear Area Regional Wastewater Authority and Sphere of Influence Update/Amendment Reviews for LAFCO 3125, LAFCO 3109, LAFCO 3112, LAFCO 3129, LAFCO 3124, LAFCO 3130, and LAFCO 3150. As required by State Law, notice of the hearing was provided through publication in a newspaper of general circulation, the *San Bernardino Sun*. 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. In addition, on June 15, 2011, LAFCO staff met with the community agencies and

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

representatives to review the determinations and recommendations made within its draft report, to solicit comments on the determinations presented and to respond to any questions of the affected Bear Valley agencies.

Executive Officer Kathleen Rollings-McDonald opens the hearing stating that this is the last area to be reviewed within the mountain region. She notes that two requests have been submitted, one from David Aladjem, representing the Department of Water and Power of the City of Big Bear Lake, and the second a letter dated August 17, 2011 from the City of Big Bear Lake, requesting continuance of the City of Big Bear Lake review (LAFCO 3125) on the basis that additional review of areas of concern in the staff report for the City need to be addressed with LAFCO staff. She recommends continuance of LAFCO 3125 to the November 2011 or January 2012 hearing. She says that Legal Counsel Clark Alsop will not be attending the October hearing, therefore she does not recommend continuance to that hearing.

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

Jim Miller, Community Development Department Director, City of Big Bear Lake, states he agrees with the continuance and thanks LAFCO staff for its help. He states the City wishes to review the report with other agencies in the Big Bear Valley. He notes that the City is opposed to expansion of the sphere of influence into federal lands and says that the federal government's view of who is responsible for the lands is of concern. He adds that growth issues in the report require further analysis. With regard to water, the City wishes to confirm that statements regarding adequacy of water are absolutely accurate. Additionally, weekend populations increase to up to 150,000 in Big Bear Lake and the City believes that issue needs to be addressed further. He states, in conclusion, that the financial relationship with the improvement agency needs further analysis. He again thanks LAFCO staff for this review.

Mayor Bill Jahn thanks the Commission and staff for its work on this review. He says that a document such as this must be accurate and he appreciates the opportunity to continue the matter in order for the City to research further.

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

Commissioner Rutherford moves to continue LAFCO 3125 to the November 21, 2011 hearing, second by Commissioner Smith. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Coleman, Curatalo, Mitzelfelt, Rutherford, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Commissioner Smith voting in her stead), McCallon (Commissioner Williams voting in his stead).

Ms. McDonald continues with the review of the Bear Valley community and states that the Commission's responsibilities are set forth in the Cortese-Knox-Hertzberg

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

Government Reorganization Act. She says that a service review must look at all municipal services provided in a region defined by the Commission.

She explains that Sam Martinez, Assistant Executive Officer, and Michael Tuerpe, Project Manager, will present the staff report, excluding the City of Big Bear Lake discussion, 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 notes that the staff report includes a discussion of the community's history noting that LAFCO has a long history in the area, beginning in 1964, when the Big Bear Municipal Water District was formed. She says that the Big Bear City CSD was formed in 1966 as a part of the consolidation of services for the east end of the valley. In 1972 the Commission began its first zone of influence review and recommended that the multiple single-purpose entities in the area looked toward consolidating to serve the Big Bear Valley. She reminds the Commission that the mountain region is the most densely populated urban forest west of the Mississippi. She says the community of Big Bear includes other smaller locales, i.e., the City of Big Bear Lake, the Fawnskin community, and Big Bear City CSD.

Mr. Martinez reports on the location of the Bear Valley community, its relationship with the other mountain communities, a description of the area and the service providers that serve the community. He refers to the four community plans adopted by the County in 2007, and says that recently the Commission defined or redefined the Lake Arrowhead, Crest Forest and Hilltop communities. He points out on the overhead display the City of Big Bear Lake, unincorporated Fawnskin area, Big Bear City CSD, Baldwin Lake, Erwin Lake, Lake Williams, Big Bear Lake, the Big Bear Airport District, Big Bear Municipal Water District, Big Bear Valley Recreation and Park District, and County Service Area 53, the City of Big Bear Lake, and Big Bear Lake Fire Protection District. For the Fawnskin area, agencies include CSA 53 and its Improvement Zones A, B and C.

Mr. Martinez says that, based upon information detailed in the staff report, more effective and efficient governance could be achieved through a reorganization of the service providers in the Bear Valley community; however, due to historic opposition to unification of service providers, such reorganization is unlikely. He adds that many of the agencies have initiated discussions on working towards service efficiencies and examples are provided in the staff report. Suggestions include shared facilities and joint operations, and the assumption of the retail water service provided by the City's Department of Water and Power by the Big Bear Municipal Water District. A series of workshops were held; however, the District decided to abandon its potential acquisition of the City's Department of Water and Power. Consolidation of the Big Bear Lake Fire Protection District and the Big Bear City CSD is also being considered in three phases. Phase one would integrate the administrative functions of the districts, phase two would integrate the operation of the districts, and phase three would officially consolidate the districts. He says that recently the agencies began the first phase by appointing the CSD's Fire Chief as interim Fire Chief of the Big Bear Lake Fire Protection District. Mr. Martinez states that it is staff's position that the Commission not signal its intent for reorganization

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

through a sphere of influence at this time, rather staff recommends that the Commission allow the agencies to work towards reorganization independently. However, Mr. Martinez notes that in the next service reviews, these issues will be reviewed again in detail.

Mr. Martinez states that LAFCO staff evaluated the existing Bear Valley community definition and identified factors that pointed toward a redefinition of the community. The first factor considered is the use of topography, He says the use of topographic constraints, such as ridgelines and canyons, is a key factor in defining a community, especially in the Mountain Region. Service delivery can be constrained by topography. The second factor considered is the use of land ownership. He points out on the overhead display forest land which includes about 75 percent of the area. LAFCO staff has identified possessory interests on the forest land related to mining and personal entities. He identifies that there is potential for service needs on the lands with possessory interest. The third factor considered is the use of watershed boundaries. He says that, although watersheds generally do not reflect the extent of the groundwater basin, they generally run along topographic constraints. LAFCO staff recommends that the Commission adjust the Bear Valley community definition based upon the three parameters identified which reduces the current community definition by approximately 4,440 acres to the northwest, 5,340 acres to the northeast, 640 acres to the south and 640 acres to the southwest. LAFCO staff also recommends modifications to the spheres of influence for the agencies based on identified changes in the Bear Valley community definition.

Mr. Martinez presents a review of services within the community. He says there are two active retail water providers in the valley, the City of Big Bear Lake through its Department of Water and Power, and the Big Bear City CSD. CSA 53 and the MWD are also authorized to provide water service but do not provide retail or wholesale water at this time. Sewer collection is provided by the City's Public Works Sanitary Division, Big Bear City CSD provides sewer collection for the eastern portion of the community, and the County provides sewer collection for Fawnskin through CSA 53B. The Big Bear Area Regional Wastewater Agency (BBARWA) is a joint powers authority that provides sewer treatment to its member agencies, which are the CSD, the City and the County on behalf of CSA 53B. Treated effluent is discharged in Lucerne Valley.

He says that in Bear Valley there are four service providers for fire and emergency services. They are the Big Bear Lake Fire Protection District, the Big Bear City CSD, San Bernardino County Fire Protection District and its Mountain Service Zone which overlays the valley primarily serving the north shore and the Fawnskin area, and the US Forest Service. He points out on the overhead display the location of fire stations. Mr. Martinez notes not included on the map is the County's new Fire Station 97 which is run by the Baldwin Lake Fire Department, a volunteer fire department serving the Baldwin Lake area. Ambulance and paramedic services are provided by the Big Bear City CSD to the entirety of the Bear Valley community. He points out on the overhead display the CSD's exclusive operating area. He indicates the recreation and park facilities are provided to the community as a whole by the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

Big Bear Valley Recreation and Park District and says the City also provides recreation and park services.

Mr. Martinez states that street lighting within the Bear Valley community are provided by the City, the CSD and CSA 53, Improvement Zone A. Bear Valley Electric owns the street lights and the agencies provide for payment of utility costs.

He says Big Bear Disposal provides curbside trash pickup within the City and the CSD serves the eastern section of the community.

The Big Bear Airport is open to the general public, although it does not have commercial passenger activity and is owned and operated by the Big Bear Airport District. Services include general aviation, flight school, aircraft maintenance and others.

Electricity is provided by Bear Valley Electric, a private corporation, under the governance of the California Public Utility Commission, which serves the entire valley.

Mr. Martinez states that the City of Big Bear Lake provides road maintenance within its boundaries, the County, through its Public Works Department - Transportation Division, is responsible for all County maintained roads and Caltrans maintains all highways. He notes that the final report on regional road services and snow removal for the mountain region is scheduled for the September 28, 2011 hearing which will include a discussion of the separate road maintenance and snow removal Zones of CSA 70 within the Bear Valley community.

Mr. Tuerpe presents the spheres of influence updates for the Bear Valley community. He points out on the overhead display the sphere of influence of the Big Bear Lake Fire Protection District and the two areas recommended for expansion. The District requested expansion of an additional area, however LAFCO staff is not recommending support for that expansion. He says the reason for the request is that the Fire Protection District provides mutual aid service into the area. Mr. Tuerpe states that it is the Commission's policy that sphere of influence boundaries for a subsidiary district align with the related City, in this case, the City of Big Bear Lake. No modifications to the service descriptions are recommended.

Mr. Tuerpe points out on the overhead display the sphere of influence of the Big Bear City Community Services District. Staff recommends six sphere of influence modifications, a reduction to exclude the Onyx Summit area, expansions and reductions to align the sphere along parcel lines, and an expansion of 4,000 square acres into the Baldwin Lake area. He explains that the Baldwin Lake area has experienced growth in population; however, the method of service has remained the same for decades. He says accessibility to water sources would benefit the area, as currently domestic water is obtained through water haulers. Sewer is currently deposited on-site through septic systems and the potential to access a sewer collection system would benefit the community. Additionally, fire service is provided

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

by the CSD through contract with County Fire. He notes that this is a controversial recommendation as the area was in the CSD sphere at one time and the community requested that LAFCO remove the area from the sphere. He explains that recommended changes to service descriptions would more accurately reflect what the agency currently provides under the respective authorized functions.

He points out on the overhead display the sphere of influence of CSA 53, a County Board-governed agency. There are areas in Lucerne Valley included within CSA 53 because CSA 53 is a member of BBARWA and BBARWA's outfall line extends into Lucerne Valley. It is recommended that the sphere of influence include this territory. He says four areas of expansion are recommended to bring the sphere in line with Commission policy and practice.

Mr. Tuerpe identifies that the functions of CSA 53 includes roads and water, however the CSA does not currently actively provide those services. He says addition or removal of functions is now treated as a change of organization, and those services cannot be removed by Commission action. However, under County Service Area Law, the Board of Supervisors can make a determination that CSA 53 does not provide the services and that removal of the services would not require another agency to provide the services. It is staff's recommendation that the Board of Supervisors remove the road function by resolution. That resolution would be forwarded to LAFCO and the road function would be removed administratively. With regard to the water function, it is staff's recommendation that the service remain because there is a possibility that the existing retail water service could be contracted to CSA 53 to serve Fawnskin or other areas in need of service.

With regard to Big Bear Municipal Water District, the boundary and sphere are basically the same as CSA 53, and staff recommendations are the same as for CSA 53 to fit the modified community definition.

Mr. Tuerpe says the Park and Recreation District sphere of influence is recommended to be modified to fit the community definition. He notes that the audits of the Park and Recreation District pointed out that internal control measures were below standards. The auditors were assured by the District that internal controls were being brought to standards and the auditors accepted that explanation.

Mr. Tuerpe points out on the overhead display the Big Bear City Airport District's boundary and sphere, which are coterminous. Modifications to the sphere are recommended to align with the community definition. No service description modifications are recommended.

Mr. Tuerpe states that BBARWA is not under the purview of the Commission, however the City, CSD and CSA all transport effluent to BBARWA and its provides a municipal level service for the Bear Valley community.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

Mr. Tuerpe concludes his presentation by pointing out on the overhead display the recommendations for Commission action.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner Bagley asks if any other powers are implied for expansion of CSA 53 into the Lucerne Valley area. Mr. Tuerpe replies that the recommendation requires no new functions or services. He explains that the practice in 1980 was that the area was annexed for tax-exempt purposes, however the sphere was not expanded. Mr. Tuerpe states, however, that the law no longer allows that to occur requiring the sphere of influence to be changed concurrent with the change of organization. Commissioner Bagley asks if a precedent would be set if Lucerne Valley were ever to incorporate. Ms. McDonald explains that the area is currently part of CSA 29, which serves the entirety of the Lucerne Valley community. She says this is not an uncommon occurrence in the valley, noting examples, such as well sites owned by the Cities of Redlands and Loma Linda and annexed to them that are inside the City of San Bernardino. There are non-contiguous pieces of the City of San Bernardino in Cajon Creek. The purpose is to remove those municipally owned lands from the tax roll and to do so they must be within the boundaries of the agency. She explains that, should Lucerne Valley move forward with a proposal for incorporation, the continuing existence of CSA 53 in that area would not be affected. Commissioner Bagley questions whether the alfalfa field to the east receives effluent. Mr. Tuerpe explains that staff recommends expansion to include the eastern part of Section 14 that was not annexed to CSA 53 previously.

With regard to the sphere reductions, Commissioner Bagley states he heard concerns about federal impacts. He asks if those are national forest lands. Mr. Tuerpe states the only national forest area is the Bighorn Wilderness area. Staff's recommendation is to keep mining interests within the community definition and spheres of influence but to remove forest area. Commissioner Bagley asks if any of those are state land. Mr. Tuerpe replies that all areas are owned by the Federal government. Commissioner Bagley states the staff report does not address mutual aid agreements with federal agencies. He asks about federal fire protection agencies with jurisdiction in the area. Mr. Tuerpe states the United States Forest Service has responsibility in wilderness areas for fire protection and there is interplay with all the districts in the area. One of the points of the Fire Protection District's request for a sphere of influence expansion to the south is that it does, through mutual aid, provide emergency response. Commissioner Bagley states he would hate to see municipal service providers burdened with additional fire protection services that should be provided by the federal government. Ms. McDonald adds that possessory interests have limited use, but the distinction between fire protection provision is wildland versus residential. Fire protection entities such as Big Bear Lake Fire and Big Bear City Fire and County Fire have a residential component supplementing the wilderness activities on the mountaintop. The US Forest Service has primary responsibility for all wildland fires and that is why mutual aid agreements and tax zones exist. She says that federal lands for fire protection are not the primary issue when regional entities are considered. The need for limited service to mines or other possessory interests can be delivered by the regional agencies and

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

that is why the City, CSD, and zones of CSA 53 are confined to the developing areas in and around Big Bear Lake. Additionally, while possessory interests and mines are shown, not shown are possessory interests along the lakefront where parcels are developed on federal lands. She says while the City has issues regarding development and confusion with jurisdiction, it has addressed the federal land interface with other regional providers. Commissioner Bagley comments that Big Bear is one of the most egregious examples of a lack of far-reaching planning.

Commissioner Curatalo states that California has an excellent mutual aid system, the US Forest Service is very good at what it does, and all agencies work very well together. Depending upon the sequence of events, forces could be shifted, and, given the seriousness of fire threats, he hopes that all fire protection agencies are included in discussion. Ms. McDonald explains that in 2004 LAFCO worked for two years with what was then CSA 38, Big Bear Lake Fire and Big Bear City Fire to consolidate of fire services to serve the Big Bear Valley. The premise was that this is a territory that needs a consolidated effort to prevent and address fire, as every fire season could present devastating consequences. She says the professionals that provide services in Big Bear Valley are working together to address the issues. Commissioner Curatalo comments that there are often nuances that professionals are aware of that can provide valuable insight.

Commissioner Coleman asks for clarification regarding the City of Big Bear Lake's concern about expansion of the sphere to include federal lands. Ms. McDonald explains that one of the expansions is westward along the highway to the dam and is already in the City's subsidiary Fire Protection District. In that area there are hundreds of possessory interests. Commissioner Coleman states that one of the concerns is the area to the south that is already in the Fire District. She questions why property that is federal land needs to be in the Fire District. Ms. McDonald states the contractual relationship with the US Forest Service precedes the requirement for LAFCO to review it between public agencies. The agency is allowed to contract to provide that service. She assumes that there are probably agreements with the CSD for other areas. She says if the Fire Protection District moves forward in the consolidation process, depending on how they choose to do it, an entire sphere of influence discussion regarding the Fire Protection District must take place to bring the CSD into the Fire Protection District. Such action would also reinsert an elected Board of Directors, the Board of Directors currently is the City Council. If it is expanded to include another fire provider, the sphere of influence discussion would include the CSD territory.

Commissioner Coleman states that BBARWA mentions that several agreements and water rights were not discussed in the report. She asks if those will be addressed in a revision to the report. Mr. Tuerpe explains that Determination No. 5 of the sphere of influence review includes a review of the efficiency of services and if there is a potential for efficiencies to be realized. One way for that to occur is through reorganization. He says the scenarios provided are theoretical, and one of those scenarios is, if an agency provides a service and another agency with similar boundaries can assume the service, thereby removing a layer of government, what

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

would that include. Mr. Tuerpe states that detail is not provided because it is theoretical. Staff's response to BBARWA is that this is rudimentary and any potential action would require a fiscal impact analysis and multiple studies.

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

Steven Foulkes, Chairman of the Board of the Department of Water and Power for the City of Big Bear Lake, states that one of the reasons for the request for continuance is that for several months the City has been in active negotiation with the Municipal Water District. It was the expectation that, at this stage, those negotiations would be complete and that the Municipal Water District would have taken over the function of the Department of Water and Power. He says the Board and City Council were on board, however the Municipal Water District Board took action to terminate that process. He says that from a governance perspective, this would be good government and he hopes the Commission would agree. He did not believe the staff report is strong enough and asks the Commission to make a strong statement that, in the Commission's opinion, it would make sense for that consolidation to occur. Ms. McDonald states that, if the Commission wishes, a stronger statement that can be made in the final resolution. She believes, however, that staff has said throughout the report what the vision and view for governance in the Big Bear Valley is. Chairman Mitzelfelt asks Ms. McDonald to research that language while the next speaker addresses the Commission.

Steven Schindler, General Manager of BBARWA, states he appreciates staff's work. He points out that BBARWA is very efficient at what it does, and to imply that another agency could do a better job is wrong.

Ms. McDonald points out in the staff report the governmental structure options for the Municipal Water District and says the first bullet point includes the following statement: "LAFCO staff continues to support having a single entity responsible for surface and ground water in the valley, which is a viable option that should be reconsidered in the future." She states that stronger language can be included in the resolution to be considered by the Commission in September.

Ms. McDonald states that there is no resolution for a service review for BBARWA. Materials that are outlined in the letter will become part of the administrative record along with the review, however LAFCO has no jurisdiction over BBARWA. Chairman Mitzelfelt asks if there is a recommendation for reorganization. Ms. McDonald explains that there were governmental options outlined in the staff report. BBARWA's objection is that this level of review is too rudimentary. She clarifies that the Commission is not adopting a resolution relating to BBARWA. Chairman Mitzelfelt states the Commission can direct that staff review the issues to which BBARWA objects and come back to the Commission with a recommendation. Commissioner Coleman states that she does not believe asking staff to go back and redo this section is appropriate as it was not a recommended action. Ms. McDonald states that when staff reviewed Victor Valley Wastewater Reclamation Authority the

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

same type of materials were provided and no resolution was adopted by the Commission. Chairman Mitzelfelt states that the Commission will defer to the Executive Officer.

Chairman Mitzelfelt closes the public hearing and calls for further questions or comments from the Commission. Commissioner Bagley states that a generic statement exists in the staff report for every agency that the agencies have zero pension obligation. He says CalPERS is half a trillion dollars upside down and is not sustainable as an agency. In addition, BBARWA has a \$1,800,000 unfunded actuarial liability. He says these are serious deficiencies in public finance and unfunded liabilities must be taken seriously. Ms. McDonald responds that LAFCO staff is not equipped to address the CalPERS or SBCERA issues. The point in including the materials is to provide information on what independent financial audits say are the obligations for retirement cost. CalPERS and SBCERA will have to address unfunded liabilities through rate increases. She adds that when LAFCO became independent and remained in SBCERA, the requirement was that LAFCO fully fund its obligation every year for the earnable compensation of its employees. LAFCO pays 22 percent as an employer versus what the County agencies pay. The City of Big Bear Lake and Big Bear Lake Fire Department are part of SBCERA and must pay the fully funded rate in order to fund the annual compensation liability. She explains that post employment benefits are contractual relationships between the agency and its employees. She says that those issues are highlighted in the service review for further discussion in the community. The only statement LAFCO can make is to identify what the independent financial audits state for the agencies it reviews. Commissioner Bagley disagrees and states that he sees CalPERS as similar to a Ponzi scheme, which has potential to take down the entire state. He believes service reviews should include a statement that CalPERS is financially insolvent and could present a potential liability in the future for its members. Ms. McDonald states staff will provide additional information within the scope of LAFCO's authority.

Commissioner Bagley states the state redistricting commission just published its final maps. There were issues related to bifurcating the mountain communities in the Assembly and Senate districts. He says that the mountain communities were most strongly represented in San Bernardino. The same issue exists with supervisorial districts. He believes the service reviews should include a definition of communities of interest, although it is not mandated. He comments that his own district in Twentynine Palms is part of an outrageous senatorial district with a population based in Bakersfield. Bakersfield is not a community of interest that Twentynine Palms would have aligned with, nor would Bakersfield have aligned with Twentynine Palms. He would like to see a legislative fix that would allow LAFCO to consider communities of interest. Ms. McDonald states that communities are defined as part of the sphere of influence review and LAFCO looks at providing synergy with service providers within those communities. It's the reason that in the Hilltop community the spheres of influence were consolidated for Running Springs WD, Arrowbear Park CWD, and CSA 79 into one cohesive consolidated sphere. This is done to foster and nurture communities for potential incorporation. That is

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

what was done in Helendale and Phelan Pinon Hills. She says that one of the efforts of CalForward is to place greater emphasis on service reviews, which look at communities and their underlying issues. Commissioner Bagley states he would prefer that communities define their own community of interest.

Commissioner Derry states that the state commission maps may end up in court. He does not believe it is too late for LAFCO to look at these issues.

Commissioner Curatalo asks if LAFCO was used as a resource for the redistricting commission. Ms. McDonald states that LAFCOs were not contacted. Commissioner Curatalo states that, in spite of whatever the public statement is for redistricting and its honorable intent, unfortunately it is purely political and the politics are not from a local perspective.

Chairman Mitzelfelt summarizes the staff recommendation, which is modified to include additional wording relative to valley-wide water service.

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

Chairman Mitzelfelt notes that the public hearing on Item 5A remains open until the November 16, 2011 hearing.

CONSIDERATION OF ADOPTION OF RESOLUTION FOR THE ELECTION OF DIRECTORS TO THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (SDRMA) – APPROVE ADOPTION OF RESOLUTION TO CAST BALLOT FOR ED GRAY, EDMUND SPRAGUE AND SANDY RAFFELSON

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 that it is staff's recommendation that the Commission cast its ballot for Ed Gray and Edmund Sprague, and that the third ballot is cast for a member from either northern California or the Bay Area in order to continue to advocate for regional representation. Of those candidates, she says Mr. Ross is from a Resource Conservation District and Ms. Raffelson is from a Public Utility District. She notes that a public utility district would have a broad range of responsibility. Commissioner Curatalo recommends casting the ballot for Ms. Raffelson.

Commissioner Curatalo moves to cast the Commission's ballot for Ed Gray, Edmund Sprague and Sandy Raffelson, second by Commissioner Coleman. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Coleman, Curatalo, Mitzelfelt,

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF AUGUST 17, 2011**

Rutherford, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Commissioner Smith voting in her stead), McCallon (Commissioner Williams voting in his stead).

SELECTION OF CALAFCO CAUCUS VOTING DELEGATE – APPROVE STAFF RECOMMENDATION

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 says that it is her recommendation that Commissioner Curatalo serve as the primary delegate and that Ms. McDonald serve as the Alternate.

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

LEGISLATIVE REPORT

Ms. McDonald states that at the Commissioner's places are copies of an email from Bill Chiat, CALAFCO Executive Director, reporting that SB244 has not yet been sent to the Governor. It has been modified to include the language of AB54 and AB1430, relative to the sections it is modifying. She says that staff's position is still to oppose due to the removal of the Motor Vehicle In-Lieu Fees for inhabited annexations.

She says that ABX1-36 (Solorio) is an effort to try to deal with what has been referred to as an unintended consequence of SB89. She says that consequence caused Orange County to lose \$49 million and the City of Fontana to lose \$1.3 million. The cities of Wildomar, Menifee, Eastvale and Jurupa Valley lost from 45 to 65 percent of discretionary revenues. This has an effect on San Bernardino LAFCO and its island annexation policy because it removed one of the largest discretionary funding mechanisms in consideration of those proposals.

Ms. McDonald reports that the AB912 was signed by the governor, which provides for an expedited dissolution process should certain factors be identified in a service review for an agency.

She says the legislative session is winding down and it is anticipated that ABX1-36 will become a two-year bill.

EXECUTIVE OFFICER'S REPORT

Ms. McDonald states the Commission will adjourn today to the CALAFCO Annual Conference in Napa from August 30-September 2. The September hearing is

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deferred to September 28. She notes that Legal Counsel Alsop will not attend the October hearing and Counsel Paula DeSousa will attend in his stead.

She comments that an annexation proposal has been received from the Town of Apple Valley.

With regard to the mountain road report, Ms. McDonald notes staff is awaiting responses from the Auditor/Controller and Special Districts to conclude that analysis.

COMMISSIONER COMMENTS

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

COMMENTS FROM THE PUBLIC □

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

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE
COMMISSION, THE HEARING IS ADJOURNED AT 10:50 A.M. TO THE
CALIFORNIA ASSOCIATION OF LAFCOS 2011 ANNUAL CONFERENCE IN
NAPA, AUGUST 31 THROUGH SEPTEMBER 2, 2011**

ATTEST:

ANNA RAEF, Recording Secretary

LOCAL AGENCY FORMATION COMMISSION

BRAD MITZELFELT, Chairman