

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF FEBRUARY 15, 2012**

REGULAR MEETING

9:00 A.M.

FEBRUARY 15, 2012

PRESENT:

COMMISSIONERS:	Jim Bagley	Larry McCallon
	Ginger Coleman	Brad Mitzelfelt, Chairman
	Robert Colven, Alternate	Robert Smith, Alternate
	Kimberly Cox	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
Angela Schell, Deputy Clerk to the Commission

ABSENT:

COMMISSIONERS: **James Curatalo, Vice-Chairman**
 Janice Rutherford

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:03 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.

Chairman Mitzelfelt 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.

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS FOR ITEMS 2-4,
ITEM 1 CONTINUED TO APRIL 18, 2012, ITEM 5 DEFERRED FOR DISCUSSION**

1. Approval of Minutes for Regular Meeting of January 18, 2012
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of January 2012 and Note Cash Receipts
4. Review and Adoption of LAFCO Resolution No. 3149 For LAFCO 3106 – Service Review and sphere of Influence Update for the San Bernardino Mountains Community Healthcare District; and,

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5. Review and Adoption of LAFCO Resolution No. 3155 for LAFCO 3148 – Service Review and Sphere of Influence Update for the Bighorn Desert View Water Agency

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments, and Items 4 and 5, 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.

Executive Officer Kathleen Rollings-McDonald states that staff requests that Item 5 be deferred for discussion under Item 6.

Commissioner Cox moves approval of Items 1-4 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo, Rutherford

Chairman Mitzelfelt states that he has received a speaker request from Marina West with regard to adoption of the January minutes. Ms. West says the LAFCO minutes appear to represent what was actually said by the public, not a generalization of comments. She requests correction of the minutes regarding testimony of Court Prittie of Johnson Valley with respect to the agency's sphere review. She says the minutes state that Mr. Prittie testified that, "He states that he questions the results of the survey that many people wanted pressurized water in Johnson Valley. He does not believe this to be the case." She says the record should reflect that Mr. Prittie actually said, "I don't know anybody that said they said yes to this." She states that she has survey cards indicating how many people voted yes on their survey card. She believes that what Mr. Prittie said varies significantly from what the minutes reflect and that Mr. Prittie attended a committee meeting where he said that he knew people who wanted water, but the concern was cost. She says he knows full well that the private well owners in Johnson Valley represent a small percentage of the privately-held properties, and that the remaining are unable to develop their lands. She says Mr. Prittie lied to the Commission because he and the other private well owners who testified do not want anyone else to enjoy their properties in Johnson Valley. She states the record should reflect what Mr. Prittie said, not what the Commission believes he said.

Commissioner McCallon asks if the minutes are transcribed from a recording. The recording secretary indicates that they are, but they are not verbatim.

Commissioner Cox amends her motion to approval of consent calendar Items 2-4, and continuation of consent calendar Item 1, in order to give staff time to prepare a transcript of that portion of the January hearing and to amend the minutes if necessary, 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None.

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Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

PUBLIC HEARING ITEMS

CONSENT ITEMS DEFERRED FOR DISCUSSION --

REVIEW AND ADOPTION OF LAFCO RESOLUTION NO. 3155 FOR LAFCO 3148 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE BIGHORN DESERT VIEW WATER AGENCY – CONTINUED TO APRIL 18, 2012

Executive Officer Kathleen-Rollings McDonald presents the staff report for the consent item deferred for 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. Ms. McDonald states that staff received requests from two property owners within Area 2, the area that has been omitted from consideration, as well as a request for clarification from the Bighorn-Desert View Water Agency (Agency) as to whether or not the Commission's intent was to exclude all of Area 2 or the W-1 service area. She says this area was discussed at length in the Yucca Valley (Hi-Desert Water District) and Joshua Tree considerations. Ms. McDonald states that the District has asked for assurance that the Commission acknowledged this area. She notes that before the Commissioners today are requests from John and Mary Blucker, and Michael Litsitz, that their properties be included in the sphere of influence. She says the staff recommendation states that the Commission's direction was to exclude these areas. The resolution before the Commission today includes the determination to exclude Area 1 and to include what was defined as Area 3.

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

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

Judy Corl-Lorono of Yucca Valley states that she believes the LAFCO report was an honest and fair representation of what is going on with Bighorn-Desert View Water Agency and if something were radically wrong, it would have been in the report. She was surprised that the Commission went against the advice of the report, seemingly on the unsubstantiated word of five well owners, none of whom are customers of the Agency. She says that, as an elected official, it is her job to be discerning of who and what the constituents' needs and desires are. She says Mr. Blucker owns 80 acres in the cross area and has been trying to get water service for years. She asks the Commission to read the two letters presented to them. She reads from one of the letters as follows: "With all due respect, I am writing to express my disappointment that LAFCO did not follow plan or recommendations for the expansion of Bighorn Desert View Water Agency's sphere of influence to include portions of CSA W-1, where I own two parcels, residing on one. In addition, I speak for myself on behalf of a sizeable

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number of neighbors in expressing frustration with the choice of San Bernardino as a location for public hearings on our community nearly 100 miles away. Not only is notice of such hearing insufficient, the great distance from our community presents a great barrier for those of us wishing to offer relevant testimony.” She thanks the Commission for its time and asks the Commission to modify the resolution and staff report to include the cross areas so that the Agency can serve Mr. Blucker.

Marina West, General Manager of the Agency, states that on January 18, 2012, several individuals made the 85-mile trek to these chambers to demonstrate their personal distaste for the Agency. She says they did not make it clear that they are not really customers of the Agency, they are private well owners and could care less about the neighbors living at risk. She states that they spoke passionately and not necessarily truthfully. She believes their greatest fear is that water would come to Johnson Valley which could take away their sovereignty. She says that, per Mr. Prittie’s testimony on January 18, there are about 50 private wells in Johnson Valley, and per the County Assessor’s Office, there are 837 private properties; therefore, the well owners make up about six percent of the properties and declare themselves to be self-sufficient. She asks if it is not the Commission’s job to care for, plan for, and protect the other 94 percent. She says the leadership of the Agency got serious and decided that it needs to know if citizens want a water supply in their community. She says a legitimate mail-in survey was conducted and it was a litmus test – yes or no. Much to the surprise of the Agency, 235 respondents claimed they were interested and needed more information on the cost to make an informed decision. She says the Agency has been working on the water needs of Johnson Valley for several years and those are the facts. She believes that the officers of the Johnson Valley Improvement Association are simply angry that they could not control the results or have knowledge of who voted against their will. She says they are unwilling to accept the fact that their role should be to facilitate the development of water supply for their membership and their community. She alleges that the officers have forgotten their mission, to pioneer community spirit and monitor orderly growth and develop of their community. She says that, in the end, the Commission took action inconsistent with its mandates and its prior directives to staff regarding analysis of this cross area, when it apparently took the voice of five very closely-connected individuals as a position of the entire community. She says that letters of support have been received and forwarded and notes that the sphere review was complicated. There were many choices with different reasons to support them. She says that rapid-fire deliberation process hurt that. She could not see evidence that the Commission acted on anything but emotion, aside from the mutual request to keep Gubler Orchids out of the sphere. She says the hearing should have been continued to a location in Landers to seek input from those too disadvantaged to make the trek. She says Bighorn Desert View accepts the staff report and is grateful that the process has finally come to a conclusion; however, she cautions the Commission to be mindful of the public servants who work in the background. She says that, with all the lies, accusations, anger and resentment being cast about, the Agency deserve the opportunity to testify in defense of the Agency when it comes to critical decisions like sphere reviews. She expresses her gratitude to the Commission for the opportunity to review this issue again. She believes that if bad things were happening at the Agency it

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would have been made public and would have been included in the staff report. She thanks the Commission for its time.

Chairman Mitzelfelt closes the public hearing and calls for further questions from the Commission. There are none.

Ms. McDonald reports that the question presented is whether or not the Commission wishes to change its recommendation from the last hearing. Staff has provided a draft resolution making the determinations that were approved at the January hearing. She points out on the overhead display the areas and parcels to be included and excluded. She states that if the materials provided regarding the cross area are sufficient for the Commission to consider changing the recommendation to include the cross area, the matter could be deferred. However, if the Commission wishes to move forward with the recommendation, the resolution provided based upon the determinations made at the last hearing will complete the service review.

Commissioner Cox moves to adopt the resolution based upon the recommendations from the January hearing. She continues to be opposed to a de-facto sphere of influence expansion for this agency; second by Commissioner McCallon.

Commissioner Bagley states that the Commission has received a letter from Michael Lipsitz, whose property is in Area 2. He asks where Mr. Lipsitz's property is located. Ms. McDonald states that Ms. West probably knows the location. Ms. West states the parcels are in Area 2. Commissioner Smith asks how many other residents are in the cross area. Ms. McDonald does not have a specific number and states there are public and private properties within the cross area. Commissioner Bagley says the sphere of influence suggestion simply allows for the parcels to be included in the future if they were to request water service. He says inclusion in the sphere of Area 2 seems somewhat innocuous under the circumstances. He is very sensitive to the passionate pleas for exclusion from residents, however, he is not opposed to including Area 2 in the motion. Commissioner Coleman agrees and says the Commission did not have information that there are individuals who are interested in getting water service from the Agency when it considered the matter in January. She believes the Commission should consider including those properties. Commissioner Cox states that if a parcel is adjacent to the current boundary of the Agency, it is her understanding that that parcel could obtain an out-of-agency service connection. Ms. McDonald states that they could not; the only way to be granted an out-of-agency service agreement is if the property is within the sphere of influence of an agency. Therefore, granting inclusion in the sphere would give those properties the ability to contract with the Agency for service. Ms. McDonald states that the Lipsitz property, according to Ms. West, is in the W-1 service area, and the Blucker property is not in a sphere of influence, nor is it in the boundaries of a water provider. Commissioner Bagley says his interest in including the area is to afford an opportunity to individuals who own parcels in those areas. He says making boundary changes now will allow for lower costs to residents in the future. He says LAFCO staff has taken a long-range vision of what should be there but he is sensitive to those individuals who are passionate about what is there now and where they want to be. He does not want to

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exclude those who want to ask for water service because they are not in the sphere of influence.

Ms. Cox modifies her motion to include those four parcels. Commissioner McCallon amends his second. Ms. McDonald says that if the Commission is going to consider the Blucker properties for inclusion, she asks that other properties be included to square off the area. Commissioner Derry asks for more clarity on where the properties are located. He asks that the entire matter be continued to the April hearing. Ms. McDonald suggests continuing the matter to April and holding a community meeting in the area in the meantime, including participation by the Commissioners. Commissioner Cox withdraws her motion. Commissioner McCallon withdraws his second. Ms. McDonald says staff will work with Special Districts and the Agency to secure a location. She asks if there is interest by the Commissioners to participate in a community meeting. Commissioners Derry, Cox and Coleman will participate. Individual notice will be provided to all property owners in Area 2.

Commissioner Bagley moves continuance of the item to the April hearing, with a goal of obtaining input from property owners in the area in a community, and directing staff to provide individual notice of said meeting to all property owners in Area 2; 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

CONSIDERATION OF LAFCO 3136 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE BEAR VALLEY COMMUNITY HEALTHCARE DISTRICT – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO 3136 – Service Review and Sphere of Influence Update for the Bear Valley Community Healthcare District (Continued from January 18, 2012 Hearing). As required by State Law notice of the original hearing was provided through publication in a newspaper of general circulation, the *Big Bear Grizzly*. 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 in each of the respective newspapers. 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. Ms. McDonald states that at the last hearing the Commission reviewed both mountain healthcare districts. Bear Valley Community Healthcare District's legal counsel submitted a letter immediately preceding the hearing questioning the staff's position on the requirement for an appropriation limit. The matter was continued to this

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hearing with direction for staff to review that matter with Legal Counsel. She says that today's staff report includes the opinion from LAFCO Legal Counsel, and it identifies that this is a murky area of the law and has not been tested in the courts. She says there are some districts that have appropriation limits and some do not. Legal Counsel's response indicates that the Commission has two options; one is to take no action and let the district continue without an appropriation limit, or for the Commission to seek an Attorney General opinion to clarify the ambiguity and resolve the differing interpretations of the section of law. She asks that the Commission approve the resolution with the amendments to the appropriation limit identified in the report, and to direct staff to seek an Attorney General opinion to resolve the matter.

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

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

Julie Biggs, representing Bear Valley Community Healthcare District, says that the District has no objection to going forward either way. She is available if there are questions regarding the Gann limit. She says the District takes the position that the Gann limit does not apply. She states she attended a LAFCO training conference recently where she asked the question and no one had an answer.

Chairman Mitzelfelt closes the public hearing and calls for questions from the Commission. There are none.

Ms. McDonald notes that the Commission does not have authority to request an Attorney General opinion; therefore, a legislator or another public body would have to provide that request. Commissioner Bagley asks if it would be appropriate for CALAFCO to make the request. Ms. McDonald says CALAFCO cannot make the request either.

Commissioner Bagley says this issue is bigger than just this District and is a question statewide. He believes it would be wise to get clarification and moves approval of staff recommendation; second by Commissioner McCallon. Commissioner Derry notes that, while an Attorney General opinion may be clarifying, it may not be positive. He prefers to not seek an Attorney General opinion. Commissioner Bagley says he believes it is important to clearly define what this means for LAFCO. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Coleman, Cox, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: Derry. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

**CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3169; AND
LAFCO 3169 - REORGANIZATION TO INCLUDE ANNEXATION TO THE TOWN OF
APPLE VALLEY AND DETACHMENT FROM COUNTY SERVICE AREA 70
(ANNEXATION 2008-001) – APPROVE STAFF RECOMMENDATION**

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LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3169; and LAFCO 3169 - Reorganization to include Annexation to the Town of Apple Valley and Detachment from County Service Area 70 (Annexation 2008-001). Commission review of this proposal has been advertised in *The Daily Press*, a newspaper of general circulation within the study area. Individual notice has been provided to affected and interested agencies, County departments and those individuals and agencies having requested such notification. LAFCO staff has provided individual notices to landowners and registered voters within the annexation area (totaling 416 notices), and to landowners and registered voters surrounding the study area (totaling 502 notices) in accordance with State law and adopted Commission policies.

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 that there is an issue with acreage on this matter with regard to the notice of hearing. The notice of hearing did not include the revised acreage including the freeway right-of-way. The actual notices provided to landowners and registered voters did, however. She says that the Commission's environmental consultant has indicated that this is not a problem for this review as it is a ministerial action and is statutorily exempt from review.

Ms. McDonald states that LAFCO 3169 is an annexation to the Town of Apple Valley and detachment from County Service Area 70. It is surrounded on three sides by the existing Town of Apple Valley boundaries and on the west side by the I-15 corridor. To the west is the expanded City of Victorville sphere of influence, the Gateway Specific Plan and the anticipated hub for the Desert Express. Ms. McDonald points out the general locale on the overhead display. She points out on the overhead display the Victorville landfill and mountains, and states that the area to the northeast is the area of reorganization. A private road easement, Quarry Road, is owned by Cemex and is used by the black mountain mines. She points out Dale Evans Parkway, the County Detention Center, the WalMart Distribution Center, and parcels lines and Johnson Road along the south. She also points out Stoddard Wells Road, which bisects the area. She says the area is substantially surrounded by the boundaries of the Town of Apple Valley. She notes that Government Code Section 56357(a) states that a proposal that is initiated by City resolution that is substantially surrounded by a municipality's boundaries cannot be denied by the Commission. She says the findings include that the area is substantially surrounded; it is designated for urban growth and is not within the sphere of influence of another city. Ms. McDonald states that while the Commission has no discretion and must approve the matter, the terms and conditions applied to the process must be reviewed, considered and approved. She states that the four factors required for consideration are boundaries, services, land uses, and environmental consequence.

Ms. McDonald states the boundaries are clearly defined and the area is within the sphere of the Town of Apple. With regard to land uses, she says the existing land uses for the County is rural living, consisting of one unit per two and one-half acre parcels and 1 unit per five-acre parcels; and two small commercial areas. She says the Town of Apple Valley, in its general plan update, has proposed that this area have residential

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estate development, multi-family residential, commercial and industrial along the freeway corridor. The Town pre-zoned the area as a part of the general plan update. She comments that there is a significant code enforcement issue in the area consisting of an illegal dump. The County's code enforcement has cited the parcel on 23 separate occasions and fees are currently outstanding. Through this annexation process, the Town will succeed to all code enforcement compliance issues unresolved at completion.

With regard to service delivery, the Town of Apple Valley provides for collection of wastewater. Annexation will allow for expansion of the wastewater system to include this area. The Apple Valley Ranchos Water Company, a private water company, will provide water service. Future development in this area will require expansion of the service area of the Apple Valley Ranchos Water Company, a California Public Utility Commission process. The Plan for Service indicates that the landowner will pay all these costs. Fire protection and paramedic services will remain unchanged, as the area is part of the Apple Valley Fire Protection District. Law enforcement and traffic control will transition to the Town of Apple Valley's contract with the Sheriff's Department and the CHP will lose traffic control in this area.

Ms. McDonald states that the Town has adopted an amnesty program which provide such items as providing a grace period for code compliance, allowing for continuance of uses until the transition, and other matters. One important feature of the amnesty program is the continuation of the County's land use refuse fee, relating to solid waste handling issues. Residents in the area pay \$85.14 on their property tax bill and in return receive a voucher to go to the County landfill. It was the intent of the Town of Apple Valley to provide this service; however, the County expressed its concern and lack of support for continuing the program under their auspices. A condition of approval is included stating that there will be a continuation of the fee and the program itself through the Town of Apple Valley under the same requirements and restrictions as currently operating for the County. She says that this program, fee schedule and funding placement must be identified by the Town through a resolution of approval. Staff is recommending as a condition of approval that the certificate of completion for this proposal be held in abeyance not to exceed six months after the successful completion of the protest proceeding, for the Town to submit its program. This will allow the Town Council and staff to provide the necessary information to LAFCO staff.

Ms. McDonald points out the county-maintained roads that will transfer to the Town upon successful completion of the annexation. The County's Public Works Department has requested that a condition of approval be included to specifically transfer all offered or dedicated County drainage easements within this area to the Town of Apple Valley. Ms. McDonald states that the Commission has been presented with written confirmation from the Town Engineer that it concurs.

She says the Commission's environmental consultant has indicated the matter is statutorily exempt from CEQA on the basis that it is a ministerial action.

Ms. McDonald summarizes the staff recommendation.

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

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

Lori Lamson, Town of Apple Valley, states the Town is in concurrence with the conditions recommended by LAFCO staff. She says outreach and education meetings have been held with residents in the area, and the Town was able to draft an amnesty program with their suggestions.

Art Bishop, Fire Chief, Apple Valley Fire Protection District, states the District is in support of LAFCO 3169. He says this area has always been provided fire and paramedic protection by the Fire District. He believes the partnership with the Town of Apple Valley for future growth and development is one that will benefit the citizens and the Fire District. He notes that the Victor Valley Community College Public Training Center will hold its grand opening on April 21. He urges the Commission to move forward with the annexation.

Chairman Mitzelfelt compliments the Town for being proactive and says that this is a gateway area. He says ambitious plans are being formed for the greater Victor Valley.

Commissioner Cox commends the Town for its outreach to the property owners in the area.

Commissioner Coleman thanks staff for the outreach made in the area and says staff did an excellent job. She moves approval of the staff recommendation, 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

**CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3125; AND
LAFCO 3125 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
CITY OF BIG BEAR LAKE – CONTINUED TO THE JUNE 20, 2012 HEARING**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3125; and LAFCO 3125 - Service Review and Sphere of Influence Update for City of Big Bear Lake. As required by State Law notice of the original 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.

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Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Mr. Martinez states that the City originally requested continuance in August 2011, at which time the City requested continuance to November 2011 in order for the City to review the concerns identified in the original staff report for its service review and sphere of influence update. In November 2011 the City again requested continuance on behalf of the City's Department of Water and Power (hereafter shown as "DWP") in order for its DWP to address some of the issues identified. He says the City is again requesting additional time on behalf of the DWP to complete or finalize some of the agreements they are working on. In addition, LAFCO staff is also working with the DWP staff in finalizing the analysis of its service area. He says it is the recommendation of LAFCO staff that the matter be continued to the June 20, 2012 hearing.

Commissioner Derry moves approval of the staff recommendation, 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

MOUNTAIN REGION REVIEW OF ROAD AND SNOW REMOVAL SERVICES WHICH INCLUDES THE REVIEW OF COUNTY SERVICE AREA 70 ZONES R-2, R-3, R-4, R-5, R-7, R-9, R-11, R-12, R-13, R-16; R-21, R-22, R-23, R-33, R-34, R-35, R-36, R-40, R-44, R-45, R-46, AND ROAD SERVICES FOR COUNTY SERVICE AREA 79 AND ITS ZONE R-1, COUNTY SERVICE 18, AND COUNTY SERVICE AREA 53

A. SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE/AMENDMENT FOR THE FOLLOWING:

CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3122; AND LAFCO 3122 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 69 (LAKE ARROWHEAD);
CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3119; AND LAFCO 3119 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 59 (LAKE ARROWHEAD)
CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3121; AND LAFCO 3121 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 68 – CONTINUED TO THE JULY 18, 2012 HEARING

B. CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3162, AND LAFCO 3162 – COUNTY SERVICE AREA 70 AFFIRMATION OF SERVICE UNDER AUTHORIZED ROADS FUNCTION TO INCLUDE SNOW REMOVAL – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider Mountain Region Review of Road and

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Snow Removal Services which includes the review of County Service Area 70 Zones R-2, R-3, R-4, R-5, R-7, R-9, R-11, R-12, R-13, R-16; R-21, R-22, R-23, R-33, R-34, R-35, R-36, R-40, R-44, R-45, R-46, and Road Services for County Service Area 79 and its Zone R-1, County Service 18, and County Service Area 53 and LAFCO 3122, LAFCO 3112, LAFCO 3121, and LAFCO 3162. Notice of the Commission consideration of this application was published in a newspaper of general circulation within the area, *The Sun*, for the original hearing in December 2010. The matter has been continued to dates certain of March 2011, June 2011, September 2011, and February 15, 2012 without re-advertisement.

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 that staff requests continuance of this item to the July 18, 2012 hearing, on the basis of the need for identification of the special tax elections for CSA 68, which was intended to be the entity for review for expansion to encompass the road and snow removal for the entirety of the mountain region. A special tax election is in process and the County is establishing the parameters for those types of elections in the future. She says staff needs to know the outcome of that election because it is possible that CSA 68 may no longer be sustainable without the special taxes necessary to improve its roads. Therefore, staff is recommending continuance of this portion of the review.

Ms. McDonald states that the staff is recommending that Item B of the service review be resolved at this hearing. She notes that CSA law was changed to include snow removal as an authorized function. She says that CSA 70 has historically provided snow removal service within its improvement zones in the mountains. She asks that the Commission affirm that snow removal is an active service of the road function for CSA 70. She refers to the recommended amendment to the language for CSA 70's road function.

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

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

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

DISCUSSION ITEMS

DISCUSSION OF UNINCORPORATED MOUNTAIN COMMUNITIES NOT A PART OF MOUNTAIN REGION SERVICE REVIEWS – APPROVE STAFF RECOMMENDATION

LAFCO considers discussion of unincorporated mountain communities not a part of

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Mountain Region Service Reviews. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation in the area as required by law.

Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Mr. Martinez states that this report provides the Commission with a review of unincorporated mountain communities, which have not been defined. These community pockets are small and have little or no access to services. Those communities are generally identified as Waterman Canyon, the Mill Creek Canyon communities of Mountain Home Village and Forest Falls, Angeles Oaks, Seven Oaks, and Barton Flats. The report includes information on school districts and water service. He says that Waterman Canyon is served by Camp Waterman Mutual Water Co., and the other communities are served by a number of mutual and private water companies. He states the report includes information on water supplies and water capacities. Also included are transient non-community systems, which serve most of the camps in those areas. For most areas, fire service is provided by San Bernardino County Fire Protection District's Mountain Service Zone with the exception of Waterman Canyon, which is served by Crest Forest Fire Protection District through an automatic aid agreement. He states that Crest Forest Fire provides ambulance service for Waterman Canyon, American Medical Response provides service to Angeles Oaks, Forest Falls, and the Mountain Home Village area, and Big Bear City CSD provides service to the Seven Oaks and Barton Flats areas.

Other services include street lighting, electricity and solid waste.

Mr. Martinez states staff recommends the Commission receive and file the review of these communities.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner McCallon compliments staff on the details provided in this report and moves approval of the staff report, second by Commissioner Derry. Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Coleman, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

MID-YEAR BUDGET REVIEW FOR FISCAL YEAR 2011-12

LAFCO considers Mid-Year Budget Review for Fiscal Year 2011-12. Ms. McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. She points out on the overhead display a chart indicating applications for proposals received over the past several years, and says that this year LAFCO staff anticipates the smallest number of applications since records were kept by fiscal year. She says this reflects on the Commission's abilities to provide funding for state-mandated programs. The mid-year budget is at 49 percent of budget authority and the final projection is for expenditure of

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98 percent. Services and supplies are at 39 percent and projected at 87 percent at year-end.

With regard to the Countywide Cost Application System (COWCAP) budget, she reports that LAFCO pays San Bernardino County for a number of services, including IT and GIS support. Actual expenditures for information systems have drastically reduced. The annual cost for the past five years has ranged from \$35,000 to \$50,000 and is projected to be \$9,000 for next year. This is not a matter of reducing costs, but is a reflection of a backlog of work by the County for mapping and other items. She believes that over the next few years, as the backlog decreases, those costs will be incurred. She says the pending cost is about \$40,000 to \$50,000 and funds have been set aside for that.

Contingencies and reserves include purchase of a new computer for the Executive Officer. A compensated absence general reserve has been created to allow for payment of leave balances to employees leaving LAFCO. The recommendation is that the salary reserve account decrease by \$30,000 and the general reserve account increase by that amount to offset next year's apportionment process. She says revenues through mid-year are on target and proposal revenues are at 97 percent; however, only two proposals have been received, the other revenues relate to reimbursements for service review activity costs and protest hearings.

She indicates the existing liabilities and fund balance on the overhead display, showing the cost for approval of the digital archiving project, carry forward reserves and anticipated remaining expenditures. It is anticipated that \$19,000 will carry forward to next year to offset costs. She asks the Commission to consider the budget amendment to transfer \$30,000 specifically to general reserves.

She concludes by stating that this is a difficult financial time and all Inland Empire forecasts show that progress is being made; however, it is anticipated that next year will again show a decrease in assessed valuation. She says that a return to the level of former activity is probably three or four years away. She adds, on a positive note, that expenditures are within targets and all reserves will carry forward.

She summarizes the staff recommendation.

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

Commissioner McCallon moves approval of the staff report, 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, Cox, Derry, McCallon, Mitzelfelt, Smith. Noes: None. Abstain: None. Absent: Curatalo (Commissioner Smith voting in his stead), Rutherford (Commissioner Derry voting in her stead).

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INFORMATION ITEMS

LEGISLATIVE REPORT

Ms. McDonald states she participates in the CALAFCO Legislative Committee and attended the CALAFCO Board meeting last Friday. She says of importance to the Commission is the lack of significant position on amendments to Government Code Section 56133, the out-of-agency service agreement provisions. She says LAFCO staff and the Commission, as well as Riverside LAFCO and others have advocated for a potential amendment to address issues for service outside existing spheres of influence. She says the Commission is aware of the issues regarding the City of Big Bear Lake's Department of Water and Power, where 40 percent of its customers are outside its boundary and sphere. Current law does not allow for extension of that service by the DWP outside its boundary and sphere, creating an issue where vacant parcels between two existing residences in the Fawnskin community will not be allowed to connect to that system. She says the Commission has been provided the proposed amendment language that would address this issue. That language provides for safeguards for those who believe that this will come about for wanton development without regard for LAFCOs. She will request at the April hearing that the Commission officially take a position to support this language and send letters to the Commission's legislative representatives in the State to support a change. CALAFCO is sending out its fourth request to the LAFCOs around the state to look at this language.

EXECUTIVE OFFICER REPORT

Ms. McDonald reports that the Executive Director of CALAFCO has announced his resignation, effective October 2012.

She says she has provided the Commission with a copy of her letter to Southern California Association of Governments (SCAG) related to the draft program EIR for the regional transportation plan and sustainable community strategies. She says she is concerned and wanted to express the need for clarification of the mitigation measures that have been identified. CCL is working to clarify and respond to participation with SCAG on the Programs and Planning Committee. She says one of the primary issues is that the mitigation measures identify an urban growth boundary, without definition of the term, and that they can and should be adopted by local jurisdictions and agencies.

Chairman Mitzelfelt asks if the letter to SCAG has been sent. She says staff was not aware of the draft EIR until late in the game and the response period closed on February 14. In order to submit the letter in time she signed and submitted it. Commissioner McCallon states that a workshop will be held on the EIR on February 21 at the SCAG offices. Chairman Mitzelfelt states that the document has huge implications. Commissioner McCallon believes some changes will be made. Ms. McDonald notes that LAFCOs are required to ascertain consistency with regional transportation plans for any proposal and these mitigation measures say that the affected agencies can and should do things. By saying that, it requires that affected

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agencies show why they cannot do those things. This presents significant implications, especially regarding urban growth boundaries. Commissioner McCallon states that following that workshop on the EIR will be a workshop with CARB (California Air Resources Board) on the sustainable communities strategy.

She notes that there is no hearing in March. She will be on vacation for two weeks at the end of March.

COMMISSIONER COMMENTS

Commissioner Colven asks if the Baker CSD is providing information for its service review. Ms. McDonald reports staff is obtaining information from others. Commissioner Smith comments that he has spoken with the general manager there and he is not willing to submit information. Ms. McDonald notes that she has heard that the general manager plans to retire soon.

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 10:37 A.M.**

ATTEST:

ANNA RAEF, Recording Secretary

LOCAL AGENCY FORMATION COMMISSION

BRAD MITZELFELT, Chairman

**MINUTES OF LAFCO COMMUNITY MEETING
MONDAY, MARCH 12, 2012**

**6:00 P.M.
BELFIELD HALL
58380 RECHE ROAD
LANDERS, CA**

PRESENT:

COMMISSIONERS: Kimberly Cox
Neil Derry
Ginger Coleman

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

CALL TO ORDER – FLAG SALUTE:

Commissioner Kimberly Cox calls the meeting to order and Jim Bagley leads the flag salute. Jim Bagley is a LAFCO Public Member but attended the meeting in the audience as a private citizen of the Morongo Basin.

Commissioner Cox thanks the Landers Community Association for the use of the hall. She explains that the Commission is interested in hearing the thoughts and opinions of the community with regard to the Service Review/Sphere of Influence Update for the Bighorn-Desert View Water Agency and the definition of the Homestead Valley community.

INTRODUCTIONS:

Commissioner Cox introduces Kathleen Rollings-McDonald, LAFCO Executive Officer. She introduces herself and says she has been a member of LAFCO for over seven years and is an elected official for the Mojave Water Agency. She says it is an honor to be here to obtain input from this community. Commissioner Neil Derry introduces himself and says he is the Third District County Supervisor and is an alternate Board of Supervisor member of the Commission. He says he is hopeful that this meeting will be educational for the community, as well as for the Commission. Commissioner Ginger Coleman introduces herself and says she is Mayor Pro-Tem for the Town of Apple Valley and has been a LAFCO Commissioner since 2010. She is looking forward to hearing from the community.

Commissioner Cox says the Commissioners present are committed to staying as long as is necessary to hear from the Community.

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EXPLANATION OF A SPHERE OF INFLUENCE/SERVICE REVIEW:

Executive Officer Kathleen Rollings-McDonald thanks the Landers Community Association and says all community members should have received notice of this meeting with an explanation of the purpose of the meeting.

She explains that LAFCO is in the business of determining boundaries. She says LAFCO's history goes back to the 1950s. However, the term "sphere of influence" in actuality was coined in 1492 when Pope Alexander divided up the New World. In the 1950s, California Governor Brown determined that service delivery in the state was fragmented, with a multitude of single-purpose special districts. The crowning glory was formation of a city with 22 registered voters and a huge industrial tax base. Following that incorporation, Governor Brown set in motion a commission to look at ways to deal with these governance issues. Two competing bills were developed: one would create a state agency to determine boundaries for cities and special districts, and the second would create local commissions in every county to decide all issues related to service delivery. In 1963 a compromise was reached and LAFCOs were formed for each county.

Ms. McDonald explains the makeup of the LAFCO Commissioners; two are members of the Board of Supervisors, two are elected officials of independent special districts, two are members of City Councils, and one is a public member, selected by the other members of the Commission. Alternates are elected for each category, making an 11-member Commission. She says LAFCOs are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). This is the law that specifies what LAFCOs do. She says LAFCO is also governed by the California Environmental Quality Act (CEQA), and the Revenue and Taxation Code. She explains that the General Tax Levy portion of the property tax is divided among all agencies serving in that particular area of the County. Some of the property tax goes to school districts and other agencies. In addition LAFCOs are governed by the Ralph M. Brown Act, the public meeting law.

She explains that the role of LAFCOs is to encourage orderly growth, promote logical and efficient service delivery, discourage premature conversion of prime agricultural lands and promote efficient service delivery for cities and special districts. She notes that there is no mention of land use, as LAFCO is responsible only to make sure that services are provided efficiently.

She states that the State legislature has given LAFCOs three functions: planning, regulatory, and special study. Tonight's meeting will include a review of the planning and special study function.

Ms. McDonald states that LAFCO staff and Commissioners are here because LAFCOs are mandated to conduct sphere of influence updates and service reviews for every agency within the County. She says that San Bernardino County is the largest county in the continental United States, comprised of 22,000 square miles, 2.1 million people and

**MINUTES OF LAFCO COMMUNITY MEETING
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the most densely populated urban forest west of the Mississippi. The Commission has divided the county into four sub-regions, the valley, the mountains, the north desert, and the south desert. The needs of the south desert, which includes the Morongo Basin, Needles, Baker, Big River and Parker, are different from the urban valley where the bulk of residents live.

Ms. McDonald states that the definition of a sphere of influence is that it is a plan for the probable physical boundaries and service area of a local agency. A sphere of influence is solely a Commission determination with no protest provision and no change in jurisdiction. She emphasizes that it is a planning tool only. She says that it is the legislature's and Commission's hope that spheres of influence would discourage competition between agencies for service area and service obligations. She says the primary reason for the creation of spheres of influence was to deal with competition between cities. Cities would, at one time, extend a water line beyond its limits, thereby encompassing all properties between the city and the property to which the line is connected. LAFCOs were created to eliminate that problem.

She says that in 2001 LAFCO law was changed to require service reviews for every municipal service provider within the County every five years. In addition, LAFCOs are now required to update all spheres of influence. She notes that recently a new requirement has been added requiring LAFCOs to consider disadvantaged unincorporated communities. All of Landers, Flamingo Heights, Goat Mountain, and portions of Joshua Tree are by definition disadvantaged unincorporated communities. She says that growth and population projections determined by San Bernardino Associated Governments (SANBag) and Southern California Association of Governments (SCAG) are extrapolated to calculate a more accurate figure. That information is available on the LAFCO website.

**DISCUSSION OF LANDOWNER AND REGISTERED VOTER/RESIDENT
PREFERENCES ON BIGHORN-DESERT VIEW WATER AGENCY POTENTIAL
SPHERE OF INFLUENCE EXPANSION:**

Ms. McDonald says that considerable concern has been expressed regarding the Homestead Valley service review. She says that the Commission uses a community-by-community approach as a guide for spheres of influence. She points out on the display the communities and agencies within Homestead Valley, including Bighorn-Desert View Water Agency (Agency). She indicates the boundaries of the Agency and the staff recommendation for the Agency. At the January hearing the Commission approved the exclusion of Area 1 and added Area 3 to the sphere of influence. At the February hearing, when the resolution of approval was presented to the Commission for final approval, information was provided by a few residents regarding their desire to be included in the sphere, prompting the Commission to continue the item and request that staff review with residents of Area 2 their interest in becoming part of the sphere of influence of the Agency. Staff received information recently that the community was informed that discussion would be held regarding the larger area of Homestead Valley. She explains that that is not the purpose of this meeting. The purpose of this meeting is

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to discuss only the preferences of landowners and registered owners in Area 2. She says the Yucca Valley sphere discussion was held one year ago, including the Yucca Mesa area, and that issue has been laid to rest, as has the Joshua Tree community sphere discussion. She explains that the Commission will update those spheres in about four to five years.

Ms. McDonald introduces LAFCO staff in attendance.

Commissioner Cox encourages residents to complete a yellow form recording their preference.

QUESTIONS/COMMENTS:

Mike Lipsitz states he lives in Area 2 and services have been fine. He supports a move to the Agency because of lower rates and better accessibility, as the Agency is located in the community as opposed the Special Districts office, which is located in Victorville. He says that at one time the Special Districts Department held meetings in the area, but those have been discontinued.

John Beyl states he does not have sufficient information to make a determination on the benefit of the change. He does not know if the County buys recharged water, but that the Agency does. Ms. McDonald reiterates that the sphere of influence does not change the jurisdiction. It is merely a planning tool and the only way to change jurisdiction is through annexation. Annexation requires approval by the Commission, followed by a protest process. The protest process allows the residents and landowners to make the decision to change jurisdiction.

Duane Lisiewski states he is against the sphere expansion because Well 4 has been down since 2008, and the expenses incurred would cause a raise of rates.

Lenora Young asks why she pays for water to Victorville. Ms. McDonald explains that the Special Districts Water and Sanitation Division is consolidated with its office in Victorville, serving W-1, Spring Valley Lake, Oro Grande and other areas.

Marina West, General Manager of Bighorn-Desert View Water Agency, thanks the Commission and staff for coming to Landers tonight. She says Bighorn sent out flyers and post-paid opinion cards to the same list that received notice of tonight's meeting. The cards are addressed directly to LAFCO allowing residents to respond.

Randy West states he is a property owner in W-1. He thanks LAFCO and says he is in favor of the sphere expansion.

Judy Corl-Loreno, Board member of Bighorn-Desert View Water Agency, thanks LAFCO for the opportunity to talk about this matter. She says LAFCO staff has spent considerable time to produce the 112-page report. She says there has been a misunderstanding of what the report is all about. It is not about government interference

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or the Agency taking over. She says the Agency is the only public agency in the area and has the capacity to serve the residents.

Alec Destrý states he is opposed to the sphere expansion because of the supplemental property tax assessment, and because of mismanagement of the Agency.

Barbara Mijango states she is opposed to the sphere expansion. When she purchased her home, her experience with the Special District staff in Victorville was very positive. Getting the water turned on and service calls have been prompt. She is concerned about overlap and bureaucratic paperwork usually results in reduction in quality of service, as well as higher prices.

Gene Woodley says he is in opposition to the sphere expansion. He says the community does not need the political goings-on of the Agency, including recalls. He does not believe the Agency will keep water rates the same.

(Ten-minute break taken.)

Commissioner Cox calls the meeting back to order.

Gina Woodall says she supports the sphere expansion because Victorville is so far away. She believes the Agency would be able to provide more efficient services. She says she received a bill for \$163, which is not affordable.

Barbara Shay says she is new to the area. She questions why this change is being proposed. Ms. McDonald explains that LAFCO is required by state law to conduct sphere of influence updates, and it was the position of LAFCO staff that Area 2 would be better served by the Agency in the future. There is no requirement for annexation; however, the sphere expansion would allow residents to contract with the Agency for service.

Manuel Benitez, Deputy Director for San Bernardino County Special Districts Department, explains that County staff is available and encourages residents to call him if there is ever a problem with their service.

Commissioner Cox reminds everyone to complete a yellow opinion card.

Commissioner Coleman thanks everyone for coming and says the Commission will consider the matter at its next hearing.

Commissioner Derry thanks everyone for coming and says that, on behalf of the County, the Special Districts Department does a great job.

Commissioner Cox thanks the residents for taking time from their schedules to come out tonight. She says it is important to the Commission to hear the opinions of the residents.

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Ms. McDonald thanks everyone for coming. She thanks the Landers Association for the use of the facility.

The meeting is adjourned at 7:14 p.m.

ATTEST:

Anna Raef, Recording Secretary

**Kimberly Cox
Chair for Community Meeting**