

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF APRIL 18, 2012**

REGULAR MEETING

9:00 A.M.

APRIL 18, 2012

PRESENT:

| | | |
|-----------------------|--------------------------------------|----------------------------------|
| COMMISSIONERS: | Jim Bagley | Larry McCallon |
| | Ginger Coleman | Brad Mitzelfelt, Chairman |
| | Robert Colven, Alternate | Janice Rutherford |
| | Kimberly Cox | 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: **None**

**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.

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

1. Review Discussion within Minutes Presented for January 18, 2012 Related to LAFCO 3148 and Approval of Minutes for Regular Meeting of January 18, 2012
2. Approval of Minutes for Regular Meeting of February 15, 2012 and Community Meeting of March 12, 2012 in Landers, CA
3. Authorization for Extension of Nomination Period from April 18, 2012 to May 18, 2012 for Alternate Public Member Due to Incumbent not Applying for Position
4. Approval of Executive Officer's Expense Report
5. Ratify Payments as Reconciled for the Month of February 2012 and Note Cash Receipts

A Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments, and authorization to extend the nomination period for Alternate Public Member, have been provided, copies of each are on file in the LAFCO office and are made a part of the record by

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their reference here.

Executive Officer Kathleen Rollings-McDonald states that an additional expense has been added to her expense report and a revised copy is at each Commissioner's place.

Commissioner Bagley moves approval of the consent calendar as amended, 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, Curatalo, McCallon, Mitzelfelt, Rutherford. Noes: None. Abstain: None.

(It is noted that Commissioner Derry leaves at 9:11 a.m.)

PUBLIC HEARING ITEMS:

CONSENT ITEMS DEFERRED FOR DISCUSSION – NONE

**CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3133; AND
LAFCO 3133 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
CRESTLINE SANITATION DISTRICT (CONTINUED HEARING) – APPROVE STAFF
RECOMMENDATION**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3133; and LAFCO 3133 – Service Review and Sphere of Influence Update for Crestline Sanitation District. As required by State Law, notice of the original hearing was provided through publication in a newspaper of general circulation, the Alpenhorn News. Individual notice was not provided as allowed under Government Code Section 56157 as such mailing would include more than 1,000 individual notices. As outlined in Commission Policy #27, in-lieu of individual notice the notice of hearing publication was provided through an eighth page legal ad 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 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 December 2010 Commission hearing the Crest Forest Community Service Review was held. At that time the Crestline Sanitation District had recently changed from a Board-governed special district to an independent special district. She says that at that hearing the Commission determined the Crest Forest community definition but continued the Crestline Sanitation District consideration because of questions relating to the issue of three contracts that had expired that were not renegotiated and facilities of the District being outside the sphere of influence. She points out on the overhead display the community definitions for the Crest Forest community. She explains that this matter was continued four times over the last 18 months, and staff is now happy to report that the three contracts have been resolved. The first, with Las Flores Ranch, for transport of the District's effluent, is on a year-to-year basis; however, there is no plan in place if

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the Las Flores Ranch property owners decide to terminate the contract. She says the District is working on an expansion of the Huston Treatment Plant that will allow it to use some recycled water on the mountaintop, which may assist this situation. The second contract, with the California State Parks Department, for the Cleghorn Plant operation, has been amended and has an ongoing evergreen cycle. Regarding the third contract, with CalFire's Pilot Rock facility, where the District provides access to its outfall line for the Pilot Rock sewage treatment plant, the State does not wish to open a new contract provision as the contract lapsed many years ago. She says the staff report identifies that the State wishes to use it as a utility agreement which would be grandfathered under Government Code Section 56133. She points out on the overhead display the existing boundary and sphere of influence for the Crestline Sanitation District. Staff proposes that the sphere of influence be amended to include two parcels adjacent to the City of Hesperia where portions of the effluent are distributed to the Las Flores Ranch property. By including those properties in the sphere, they can eventually be annexed and removed from the tax roll. Additionally, staff proposes to amend the sphere of influence to encompass the Crest Forest community. She points out the areas proposed for exclusion and expansion for the District's sphere.

Ms. McDonald states that characteristics of disadvantaged communities were cursorily reviewed, as this proposal has been in the process of review for almost two years. The lack of an adopted appropriation limit has been addressed and the District is now current with an appropriation limit. She says that, as part of this review, the District has asked that services provided under its sewer function be clarified, so that it can be clear that recycled water is available for use and distribution within the system. Staff proposes and recommends that the Commission adopt a clarification of the services delivered.

Ms. McDonald summarizes the staff recommendations.

Chairman Mitzelfelt calls for questions from the Commission. Commissioner Rutherford states that the financial statements do not show unfunded liabilities for pensions and asks if that is required of all agencies of this size. Ms. McDonald states it is now required for audits of any governmental agency. She says that the District is a member of SBCERA as an independent special district, so there will be some lag time to determine the actual costs for unfunded liabilities.

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

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

**CONSIDERATION OF CEQA STATUTORY EXEMPTION FOR LAFCO 3148; AND
LAFCO 3148 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR
BIGHORN-DESERT VIEW WATER AGENCY (CONTINUED HEARING) – APPROVE**

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STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3148; and LAFCO 3148 – Service Review and Sphere of Influence Update for Bighorn-Desert View Water Agency (continued hearing). As required by State Law notice of the hearing was provided through publication in a newspaper of general circulation, the *Hi-Desert Star*. 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.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Ms. McDonald states that at the February hearing for adoption of the resolution of approval the Commission heard from members of the public and from the Bighorn-Desert View Water Agency (Agency) questioning the exclusion of Area 2 from the sphere of influence. At that hearing, the Commission directed staff to conduct a community meeting seeking input from the residents and landowners within Area 2. She explains that at the January 18, 2012 hearing the Commission approved a sphere of influence update for this agency reducing the District's territory on the west side and including a minor expansion on the east side identified as Area 3. She says questions were raised at the February hearing regarding CSA 70 Zone W-1, a zone providing water service in a portion of the Landers community and an additional area known as the cross area which encompasses territory between three public water agencies. Staff conducted the public meeting on March 12, 2012, after a notice and reminder were sent to 1,068 residents. She notes that about ten percent were returned as undeliverable. She points out on the overhead display the territory under discussion. She states that Commissioners Cox, Derry, and Coleman attended the public meeting, with Commissioner Bagley also in attendance as a private citizen. A survey form was distributed where residents were able to indicate their preference for inclusion in the sphere. She notes that 43 responses were received. Results were as follows: yes - 6, no - 20, unverified - 2, no opinion - 3, and 12 were disqualified because they did not reside within the territory. She adds that the Agency directed its staff to conduct its own mailed survey with the residents and landowners with the cards to be returned to the LAFCO office by April 10. She says that the results of that survey indicated 54 in support, 37 against, 11 not sure and 9 that were not verifiable. She says that the results were not overwhelmingly in favor or against. She notes that the Agency adopted a resolution on April 3 requesting that the Commission include Area 2 in the sphere of influence.

She explains that staff has provided options for the Commission's consideration: Option 1 would be to move forward with the decision from January to expand the sphere of influence for Area 3 and to reduce the sphere of influence for Area 1; Option 2 would be to include Areas 1 and 3 and the cross area to address the issue of unsphered territory between existing public water providers; and Option 3 would be to include both the cross area and W-1. She states that the Commission's environmental consultant has indicated that all three options would be statutorily exempt from environmental review. She notes that this matter was re-advertised for this hearing.

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Chairman Mitzelfelt calls for questions from the Commission. Commissioner Cox asks if the legal notice was in a paper of general circulation. Ms. McDonald indicates that it was advertised in the Hi-Desert Star through a one-eighth page ad.

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

Marina West, General Manager of the Agency, states she was hired by the Agency in April 2004. She says she appreciates LAFCO staff's patience through this process. She mentions that the resolution adopted by the Board received no public comment. She says that one of the recommendations is to adopt an appropriations limit. She says the Agency has done that and will continue to do that each year. She says recommended changes in the budget structure have already been put in place. She says the Board has a policy that includes Brown Act training. She asked LAFCO staff if additional policy is recommended that the Board take additional training. She says the Board has sought additional training, which has been very useful. She expresses her appreciation for everything the Commission has done for the Agency.

Michael McBride, Agency Director, says the main thing the Agency would like to accomplish is to serve the people of W-1. He says all that is being asked is to grant the sphere of influence. He explains that there is no takeover and it is up to them as to which choices they make. He says a lot of people are happy and a lot of people are not. He says he lives in Flamingo Heights and does not live in W-1. He says the people have asked for the sphere of influence so that they can make a change. He says that LAFCO staff has said it is a mixed bag. He believes they have the right to make the change. He says if the sphere is not granted it can't be done and that is not fair. He thanks LAFCO staff for an excellent report and the Commissioners who attended the community meeting. He asks that the Commission be fair to the people who live in W-1 and grant the sphere of influence.

Jim Hanley, Johnson Valley resident, says that at the February hearing Judy Corl-Lorono said that she believes the LAFCO report was an honest and fair representation of what is going on with the Agency, and if something were radically wrong it would have been in the report. He says that she was surprised that the Commission went against the advice of the report seemingly on the unsubstantiated word of five well owners. He states he has substantiation as follows: the Bighorn president was arrested and charged with two felonies and one misdemeanor, search warrants were served at the Agency and at his home. He says the Agency ignored the Brown Act. He is satisfied with the promise that similar violations will not occur in the future, but he is disappointed that the Board fails to acknowledge this violation. He says the prosecutor in that case strongly criticized the Board for repeatedly violating the Brown Act, especially its refusal to address public concerns over secret meetings. He says there is a problem and it continues. He notes that Marina West chides the Johnson Valley Improvement Association for not doing its job and said that they have forgotten their mission to pioneer community spirit. He says she also chides the Commission by saying she could not see evidence that LAFCO acted on anything but emotion, aside from the mutual request to keep the sphere of influence out. He does not believe the

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Commission acted on emotion, but took a sane course of action. He says the Agency cannot run its own business today. He believes they need more advice and direction.

Sharon Huffman, Johnson Valley, states she is not a well owner. She says it has been asserted that anyone against pressurized water in Johnson Valley was a well owner. She says there are many who are not and purchased property in Johnson Valley with the full knowledge that they had to dig a well, have water hauled or haul their own water. She says there are a lot of people who do not want pressurized water because it would mean development, and development would change the whole ambience of the community.

Larry Callander, owner of many properties in the Morongo Basin, states the island needs to be filled and if it is filled with the Agency the area would be serviced faster than it is currently being serviced. He says the cost of fuel from Point A to Point B for trucks coming from Victorville traveling 60-70 miles down the road for service calls, repairs, etc. would be eliminated because the Agency is already within the area. He has attended the Agency meetings for over nine months and has seen the Agency grow. He says when Marina West was hired the Agency was \$500,000 in the hole and is now \$700,000 to the good. He says there is not a problem with the management of the Agency. He says the Brown Act violations are old and accusations of Brown Act violations occur everywhere. He would like to see this pass so the customer can have a choice. He says the customer service rate is cheaper from the Agency than from the County. He says people are trashing the Agency for personal gain. He thanks the Commission for its time.

Judy Corl-Lorono, Board member of the Agency, lives in Landers and owns two properties in Section 2. She says the Commission has the same goal that the Directors of the Agency have - planning for the future. She recommends Option 3. She says the negative naysayers are well owners and have no sphere of influence. She says it is not a matter of the Agency wanting to take over anything. She believes in looking to the future, she would like to have the opportunity to change if she wishes. She says she has spent over an hour on the phone with people wanting to know if their taxes would be raised with the sphere. She believes more public education is needed. She thanks LAFCO staff and the Commission.

Jim Harvey, president of the Homestead Valley Community Council, says the Council is an organization comprised of the four communities of Yucca Mesa, Flamingo Heights, Landers and Johnson Valley. Delegates from each community work together on matters of mutual interest. He restates the position that the Commission has the appropriate information and will do what's right for the people of the community. He says that, unlike the statements made in the February hearing that the Commission governs emotionally, the Council does not believe that. He restates the Council's position on the community definition. He believed that the Commission was being asked by staff to make a legislative decision on the community definition. He restates that the community definition should include all four communities in the Homestead Valley, as defined by the County in the General Plan and specifically defined in the Homestead Valley Community Plan. He asks the Commission to consider reviewing that possibility if that is still possible.

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Betty Munson, president of the Johnson Valley Improvement Association, states at the January meeting the Commission recommended that before the Agency's sphere is enlarged it should mend some bridges with the communities. She says John Burkhardt, husband of Terry Burkhardt, a director of the Agency, was the membership chairman for the Association. She says Mr. Burkhardt began to use the Association's email list to circulate messages from Terry and himself and to conduct a campaign for Judy Corl-Lorono for election. She says that lately Mr. Burkhardt has been using the email list to tout a website produced by a woman who has produced several websites that seem to be abusive to Johnson Valley and its people and to the Homestead Valley Community Council. She says she was surprised to learn that the Association, as a nonprofit organization, is still required to collect sales tax on anything sold to raise money for the Association. She says that the woman who produces the abusive websites praises a businessman who lives in Yucca Valley for reporting the Agency to the State Board of Equalization, saying that for 30 years the Association has thumbed their noses at the State Board. She says that these kinds of statements are made by people who call themselves friends of Bighorn and she is sure Bighorn would say they have nothing to do with them. She says they are at most of the meetings and do continue to make these statements. She was very surprised to see that Marina West said that the Association was not truthful in how it feels about the Agency. She says that is perception and bridges are not mending.

Chairman Mitzelfelt closes the public hearing and calls for questions from the Commission.

Commissioner McCallon states that City elected officials are required by State law to have ethics training every two years. He asks if that applies to District employees. Legal Counsel Clark Alsop states that they are. He says LAFCOs are not included, probably because six of the seven members already get their training through other agencies. He says that LAFCO, by practice, has provided training for all of its Commissioners. He says cities and districts must provide training every two years.

Chairman Mitzelfelt asks Ms. McDonald to respond to Mr. Harvey's question regarding community definition. Ms. McDonald states that the community is being defined through the Agency's sphere of influence. She says the service review for the Yucca Valley community clearly identified that the County's Homestead Valley community plan, by including Yucca Mesa, was in error in LAFCO's view, because Yucca Mesa is associated with the Hi-Desert Water District and the larger Yucca Valley area. The question of the Homestead Valley definition is not now before the Commission. If, in fact, the Commission wishes to discuss that further, the matter would have to be continued because it was not included in the legal advertisement for consideration at this hearing. She says staff does not believe it is appropriate. The Yucca Mesa area was addressed during the review of the Hi-Desert Water District and the Town of Yucca Valley. The territory of Yucca Mesa was not included within the Town of Yucca Valley's sphere of influence, but it is a part of Hi-Desert Water District, which defines that overall community. She says the issue has been addressed, but there is nothing that precludes Yucca Mesa from participating in any of the discussions for the community council as it moves forward and there is nothing that changes the community plan.

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Chairman Mitzelfelt states he was under the impression that a service includes a community definition. Ms. McDonald states that the community of Homestead Valley includes the Landers, Flaming Heights, Johnson Valley, Desert View communities. This is different from the County's community plan definition. Chairman Mitzelfelt says staff disagrees with the County's community plan definition. Ms. McDonald states the community plan was adopted before LAFCO was a party to the discussions. She says the issue of including territory within a community plan whose primary infrastructure services belong with another community creates confusion. She says LAFCO's determinations make no difference in the overall scheme of things for County Planning.

Chairman Mitzelfelt reads the three options for consideration by the Commission.

Commissioner Bagley states that there are distinctive residential areas where people have a sense of community identity, Johnson Valley, Landers, and Flamingo Heights. He says that has evolved with time and is beyond the scope of what is being discussed today. He says the discussion before the Commission today is adjustment of a sphere of influence for long-range planning. He says people feel threatened sometimes when spheres of influence are adjusted, but the sphere of influence does not change tax structures or fees and is simply a planning mechanism for the future. He says that, from his perspective, government that is closest to the people is best. He is concerned that some of the contiguous property owners in CSA 70 who are indicating an interest to be included in the sphere would be precluded from asking for service in the future without asking for a sphere adjustment and annexation. He says that would add cost and he is very sensitive to that. He believes that in the future there will be escalating costs for sphere of influence changes and annexations. He believes in a long range planning vision that would allow those interested to get municipal water service. He notes that the sphere could be changed in the future. He believes Option 3 is the wisest choice today for a long-range vision for the area.

Chairman Mitzelfelt asks that the maps showing the three options be displayed. Ms. McDonald indicates the options on the overhead display.

Commissioner Cox states that her overall position has not changed and believes the Commission should adopt the resolution as written. She says the results were inconclusive and is concerned about these unincorporated areas and she believes it is incumbent upon the Commission to evaluate the merits of each option. She, as a water manager, would be concerned about planning appropriately knowing that at some point her water district was going to become someone else's water district. Considering the fiscal challenges in this day and age, she would think twice about sinking additional money in the area. She believes this sphere change would unduly inhibit CSA 70 from appropriately servicing the area knowing that in the future they may lose that territory because of the sphere. She is ambivalent regarding the cross area.

Commissioner Coleman states she agrees with Commissioner Bagley that this is a planning tool and does not change service. It allows an opportunity in the future to annex at a significantly lower cost. She says CSA 70 manages many areas that are in other agencies' spheres. She believes the County will continue to manage very well

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and will continue to invest money to provide services, because ultimately those individuals are served by the County until that area is annexed into the Agency.

Commissioner Bagley comments that, at the community meeting in Landers, there were many people in the audience who were very happy with the service received by the County. He says this will not change their service, but it does allow a planning mechanism for the future. He says that the advantage for those served by the Agency is that they can elect Directors. He says that lays the foundation for other governance in the future.

Commissioner McCallon agrees with Commissioner Cox and does not see that there is any reason to change the original decision for Option 1. He would support that decision.

Chairman Mitzelfelt asks if the County has indicated a preference. Ms. McDonald states that County officials have not provided a specific response, other than they support W-1 and the continuation of service. She says that on Monday a community meeting was conducted by the County, in order to review with its customers service delivery for the area and to answer questions and highlight what the County is doing. There has not been an official position expressed. Ms. McDonald asks the Special Districts representative to speak on this matter.

Steve Samaras, Operations Manager, Special Districts, states he conducted the public outreach meeting in Landers. He says the consensus of the community was that they are overall satisfied with the County's service. He says the meeting was to inform the community of the services provided by the County. The Special Districts Department has expressed its official position of opposition to a sphere expansion at this time. He says the Department has the capability of reaching out to the Agency if needed and Special Districts serves its customers very well. He commends LAFCO staff on its report. He notes that Special Districts staff does not have to drive there from Victorville, as staff is stationed in the area every day.

Ms. McDonald states that at the January hearing, Special Districts' position of not in support of Option 2 was provided to the Commission indicating its basis was due to a redundancy in service providers. She reminds the Commission that Area 3 is part of W-1 and services are provided under contract with the Agency. She notes that County Service Areas do have spheres of influence, but zones to CSA 70 do not, as CSA 70 encompasses all of the unincorporated areas of the County.

Commissioner Bagley moves approval of Option 3 of the staff recommendation, second by Commissioner Coleman. Ms. McDonald summarizes Option 3. Commissioner Bagley states that one of the functions of LAFCO is to look at efficiencies and consolidate government into the future when they are not serving their best purpose. He says CSA 70 is countywide and provides an essential service; however, government that is closest to the people is the destiny of this area. He explains that this is a planning tool that simply says that if there were to be a change in local government with a locally elected government that would function as a water purveyor in the area, the

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Agency is the most logical source. Commissioner Cox requests a roll call vote. A roll call vote was conducted and the results are as follows:

Commissioner Bagley: yes
Commissioner Coleman: yes
Commissioner Cox: no
Commissioner Curatalo: yes
Commissioner McCallon: no
Commissioner Mitzelfelt: no
Commissioner Rutherford: yes

The motion carries.

Ms. McDonald states that the District, with the adoption of this sphere of influence update, will be obligated to work with the community within the sphere of influence addressing issues. She notes that the Commission will be reviewing this Agency again in five years.

Commissioner Cox states that this agency has had a serious public relations problem in the past. She believes the Agency has heard the Commission's deliberations well and has taken them to heart. They are commissioned to do a better job with the communities.

Chairman Mitzelfelt notes that this is an action that was initiated by LAFCO and expresses his appreciation to everyone for attending today's hearing.

(It is noted that Commissioner Smith leaves at 10:16 a.m.)

PRELIMINARY BUDGET REVIEW FOR FISCAL YEAR 2012-13

PROPOSED SCHEDULE OF FEES AND CHARGES – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing for the preliminary review of the Proposed Schedule of Fees, Deposits and Charges for Fiscal Year 2012-13. Notice of this hearing has been advertised as required by law through publication in *The Sun*, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments and the County.

Ms. McDonald presents the staff report for the Proposed Schedule of Fees, Deposits, and Charges, a copy of which is on file in the LAFCO office and is made a part of the record by its reference here. She says staff does not recommend any changes to the current fee schedule to the amounts to be charged. However, staff is proposing changes to provide descriptive changes to clarify that fees and deposits clearly apply to changes of organization as well as sphere of influence proposals. For the schedule of fees, staff recommends that the Commission review and provide direction, adopt the proposed fee schedule and direct staff to present them to the County, Special Districts, all cities and towns for review and comment and schedule the final review and adoption

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for the May 16, 2012 hearing.

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

PROPOSED BUDGET FOR FISCAL YEAR 2012-13 – APPROVE STAFF RECOMMENDATION

LAFCO considers Proposed Budget for Fiscal Year 2012-13. Notice of this hearing has been advertised as required by law through publication in The Sun, a newspaper of general circulation. Individual notice of this hearing was provided to affected and interested agencies, County departments and the County.

Ms. McDonald presents the staff report for the Proposed Budget for Fiscal Year 2012-13, a 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 in a recent article in the New York Times indicated that the economic recovery in the State of California is no longer a north-south issue, but an east-west proposition. It said that along the coastal plains the economy is recovering but the inland areas are still facing severe constraints on funding. She says this discussion began in February with a review with members of the Administrative Committee, comprised of Chairman Mitzelfelt and Vice-Chairman Curatalo. Staff has reviewed with them its questions and concerns.

She points out on the overhead display a chart showing the history of proposals and service reviews over the last 10 years. Staff estimates that by year's end the Commission will have received one proposal in the current fiscal year.

For the current fiscal year, it is projected that 98 percent of expenditures will be spent, or \$867,000. Total budget authority was \$949,000, excluding the reserve accounts, which roll over every year. It is proposed for 2012-13 that the budget for expenditures will be \$942,000. She notes that reserves are for compensated absences, litigation, the countywide cost allocation plan, and general reserves, in the total amount of \$354,000.

Ms. McDonald explains that a restructuring of support staff is being proposed. Two years ago the Clerk to the Commission retired and the position has not been filled. She says that this budget proposes a return to the support staff structure of three positions: Clerk to the Commission, Deputy Clerk to the Commission and LAFCO Secretary. It is also proposed that the minutes change to action minutes only, as a video recording of each hearing is now available through the City of San Bernardino's website. It is proposed that those videos will also be placed on the agenda page of LAFCO's website, eliminating the need for the detailed minutes currently provided. Consequently, the

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salary structure for the Clerk to the Commission would be changed to reflect that. A compensation survey conducted by CALAFCO was also used to develop what staff believes is the appropriate salary structure for that position. The existing contracts with Anna Raef and Riverside LAFCO for support assistance will, therefore, not be renewed.

Ms. McDonald notes that her contract with the Commission goes through June 2013. She says the option of retaining her for one more year was discussed. She believes that current proposed pension reform will change the 1937 Act Retirement Systems structures to allow retirees to work for their former agency for a single 960-hour year. Staff proposes continuation of her contract to June 2014. Commissioner Cox asks if there is grandfathering in that provision. Ms. McDonald responds that, as currently structured, it is somewhat vague. She believes that, as pension reform is so paramount, it will pass. Commissioner Cox believes this is a very shortsighted piece of legislation. Ms. McDonald explains that the difference between her contract and a full salaried Executive Officer would be in benefits. Currently, LAFCO saves about \$100,000 per year in benefits. She points out that LAFCO apportionment for small agencies is a major expense, so the recommendation is to defer her contract extinguishment for one more year, ending in June 2014.

For services and supplies, staff proposes to upgrade the Commission's website. Management of the website will be removed from the County's ISD Department and return management to LAFCO staff. This would also reduce COWCAP charges.

Ms. McDonald states that the office lease was due to expire next year; however, she was able to renegotiate the lease with the owner, returning the per-square-footage charge to \$1.50, which was the 2006 rate in return for a new five-year term. This is an \$8,900 per year savings.

With regard to revenue, she reports that three proposals are projected for 2012-13. The second cycle of the service review/sphere of influence updates will begin this fiscal year. It is anticipated that service reviews will be conducted on a service-by-service basis comprehensively and will include information on the possibility of shared services for the agencies. Staff intends to bring together stakeholders groups to discuss those types of services. She says that fees and deposits are proposed to provide one percent of revenues. She concludes by stating that net costs to the Commission's constituent entities have been reduced by \$30,000.

Ms. McDonald summarizes the staff recommendations. She notes that the auditing firm of White, Nelson, Diehl & Evans has been selected for the next four-year cycle for audits for the five Southern California LAFCOs.

Chairman Mitzelfelt calls for questions from the Commission.

Commissioner Cox asks if there are other alternatives to hiring a Human Resources consultant for the support staff recruitment. Ms. McDonald states that LAFCO staff has not recruited on its own for the past 10 years; however, if the Commission wishes, staff can recruit on its own. Commissioner Cox states that she believes there is a wealth of potential candidates here in San Bernardino County and she has confidence in LAFCO

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staff to conduct the recruitment. Commissioner Coleman asks how much time would be involved in LAFCO staff's review of the applications. Ms. McDonald states she does not believe it would be a problem for staff to handle it. Ms. McDonald would propose moving the \$3,500 budgeted for recruitment to contingencies.

Commissioner McCallon asks if the audit firm was hired by CCL. Ms. McDonald explains that the RFP was issued and CCL evaluated the five responses. This was the highest ranked firm by San Bernardino, Los Angeles, Orange, Riverside, and Imperial LAFCOs. This firm will audit all of these agencies. The cost for San Bernardino LAFCO is \$7,000. Commissioner McCallon asks what their experience is in auditing LAFCOs. Ms. McDonald states they have audited cities, special districts, and school districts, but have not audited LAFCOs.

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

INFORMATION ITEMS

PENDING LEGISLATION REPORT

Ms. McDonald states that the pending legislation report was provided to the Commission electronically.

AB2238 (Perea) – Ms. McDonald states this changes language regarding disadvantaged unincorporated communities. She says that this bill was amended on April 11 to include an uncodified section that is intended to identify the intent of the legislature related to these kinds of studies. It indicates that LAFCOs are to focus on consolidation, merger or extension of public water systems, especially those located in disadvantaged communities by seeking financial assistance in order to perform the necessary service reviews and studies. She questions the source of the funding for this unfunded mandate. She believes this requires the assessment by experts and consultants, the cost of which to be borne by LAFCO's constituent groups. She recommends that the Commission take a position of opposition to this legislation.

AB2698 (Assembly Local Government Committee) – This is the CALAFCO Omnibus Bill, making non-substantive changes to LAFCO law. She recommends support of this bill.

SB1498 (Emmerson) – Ms. McDonald states this is sponsored by the League of California Cities to address concerns from last year with SB244, requiring that when there is an annexation of greater than 10 acres to a City, a disadvantaged unincorporated community must have an annexation proposed for it for future consideration. She says the League of California Cities is looking to eliminate that requirement in exchange for putting forward proposed changes to Government Code Section 56133, the out-of-agency service contract provisions. The CALAFCO Legislative Committee has been working on the amendments to Section 56133 for six

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years. This would allow for the extension of service outside a sphere of influence if specific determinations are made regarding that service. For San Bernardino LAFCO, the City of Big Bear Lake's Department of Water and Power is the most critical. She says that the Department serves the FawnSkin community, a portion of Moonridge and Sugarloaf. FawnSkin would prefer to have no connection with the City of Big Bear Lake and the other communities are currently part of the Big Bear CSD. She recommends support of this legislation. She says it is possible that amendments will be made to this legislation before the end of the month.

SB1566 (Negrete-McLeod and Emmerson) – Ms. McDonald reports that this corrects the motor vehicle in lieu fees that were taken from legally inhabited annexations. She notes that SB89 cost cities significant money. In this county, the City of Fontana lost \$1.3 million for its 34 islands that were annexed. SB1566 proposes to return that funding. Staff recommends a support position on this legislation.

SB1519 (Fuller) – This bill was introduced by Senator Fuller at the request of the Bighorn Desert View Water Agency to correct issues from the Agency's old consolidation law, which were put in place when two agencies not formed under the same principal act could not be consolidated. She has spoken with Senator Fuller's staff. The language of the current bill is being considered a placeholder and the Senator's staff will work with LAFCO staff to make sure the proposed changes are correct. Staff recommends a watch position.

Ms. McDonald asks the Commission to direct her to write letters in support or opposition to the legislators who have written the bills, to the committees and to the legislative delegation for San Bernardino.

Commissioner Cox moves that staff issue letters as indicated in opposition or support of various bills, second by Commissioner McCallon. Commissioner Cox asks Ms. McDonald, with regard to SB1519, if she sees any reason that the Commission would want to take a support or oppose position. Ms. McDonald states that her discussion with Senator Fuller's staff is that nothing will move this year.

Commissioner Curatalo states it is his understanding that the definition of community is still undecided and there are concerns in many areas of the County. Ms. McDonald states that the discussion of disadvantaged unincorporated communities simply set a median household income level. It will be incumbent upon the Commission to determine for implementation purposes what it considers to be a community, and what it considers to be a community that needs to be annexed to a city. For example, she explains that the lower area of Bloomington is a disadvantaged unincorporated community by this definition. She says that if the City of Rialto proposes a 10-acre island annexation that triggers this requirement, policies must be written in a way as to not create another island. She says the law is silent on those. She states that staff will be presenting information on disadvantaged unincorporated communities to the Commission. She will also be presenting at the LAFCO Staff Workshop on this subject. Commissioner Curatalo states there has been discussion on not using the state to set income levels but using the individual counties.

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Commissioner Bagley states the Commission needs to stand up for some of the rural communities in San Bernardino County, where the people choose to live even though they are disadvantaged unincorporated communities.

Chairman Mitzelfelt calls for opposition to the motion. There being no opposition, the motion passes with the following vote: Ayes: Bagley, Coleman, Cox, Curatalo, McCallon, Mitzelfelt, Rutherford. Noes: None. Abstain: None.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reports that at the June CCL meeting she will be appointed CCL's southern LAFCO representative to the Programs and Planning Technical Advisory Committee for SCAG. Commissioner McCallon states that one of things that is lacking at SCAG is discussion regarding special districts, so he believes Ms. McDonald's participation will be a good thing.

She reports that the May hearing will include the Twentynine Palms Service Review and the final budget.

COMMISSIONER COMMENTS

Commissioner Coleman announces that the State Water Resources Control Board is pushing through some amendments to its regulations. Buried in those amendments is a proposal to increase lot sizes for septic systems from the current size to 2.5 acres. This would impact the desert areas significantly. Staff in the desert cities are working together to address the matter. This could significantly affect land use designations.

COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 11:05 A.M.**

ATTEST:

ANNA RAEF, Recording Secretary

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, Chairman