

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

REGULAR MEETING

9:00 A.M.

AUGUST 15, 2012

PRESENT:

COMMISSIONERS:

**Jim Bagley
Kimberly Cox, Vice-Chair
James Curatalo, Chair
Larry McCallon
Brad Mitzelfelt**

**Janice Rutherford
Sunil Sethi, Alternate
Robert Smith, Alternate
Diane Williams, Alternate**

STAFF:

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

ABSENT:

COMMISSIONERS:

Neil Derry, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION –
CALL TO ORDER – 9:02 A.M. – SAN BERNARDINO CITY COUNCIL CHAMBERS**

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

Chairman Curatalo 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

1. Approval of Minutes for Regular Meeting of June 20, 2012
2. Approval of Executive Officer's Expense Report
3. Ratify Payments as Reconciled for Month of June 2012 and Note Cash Receipts
4. Review and Adoption of Resolution No. 3165 for Revised, Amended and Reorganized Policy and Procedure Manual
5. Unaudited Year-End Financial Report for Fiscal Year 2011-12

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6. Consideration of: (1) CEQA Statutory Exemption for LAFCO SC#367; and (2) LAFCO SC#367 – City of San Bernardino Irrevocable Agreement to Annex No. 2012-01 for Sewer Service (APN 0268-041-14 — Baker Family Learning Center)

LAFCO considers the items listed under its consent calendar which includes a Visa Justification for the Executive Officer's expense report, staff reports outlining the staff recommendations for the reconciled payments, the resolution to adopt the revised, amended and reorganized policy and procure manual, the unaudited Year-end financial report for FY 2011-12, and the approval of LAFCO SC#367, copies of each report are on file in the LAFCO office and are made a part of the record by their reference herein. The service contract has been advertised as required by law and individual notice provided pursuant to Govt. Code Section 56157. The staff recommendation for SC#367 is that the Commission: (1) determine that SC#367 is statutorily exempt from environmental review and direct the Executive Officer to file a Notice of Exemption; (2) approve SC #367 authorizing the City of San Bernardino to extend sewer service outside its boundaries; and (3) adopt LAFCO Resolution No. 3166.

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

PUBLIC HEARING ITEMS:

CONSENT ITEMS DEFERRED FOR DISCUSSION - NONE

SERVICE REVIEW FOR THE CITY OF BIG BEAR LAKE DEPARTMENT OF WATER AND POWER AND CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3125; AND (2) LAFCO 3125 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF BIG BEAR LAKE (CONTINUED FROM JUNE 20, 2012 HEARING)

LAFCO conducts a continued public hearing to consider the Service Review for the City of Big Bear Lake Department of Water and Power and Consideration of CEQA Statutory Exemption for LAFCO 3125; and LAFCO 3125 – Service Review and Sphere of Influence Update for City of Big Bear Lake.

Assistant Executive Officer Samuel Martinez 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. He states that at the August 17, 2011 hearing the Commission began its consideration of the Service Review and Sphere of Influence Update for the Bear Valley Community and its component agencies, which included the City of Big Bear Lake. At the request of the City of Big Bear Lake and its Department of Water and Power ("DWP"), the Commission continued the City's service review and sphere of influence update to the November 2011 hearing on the basis that additional time was needed to review areas of concern identified in the staff report related to the City and the DWP. Prior to the November 16, 2011 hearing, LAFCO received another request from the City to continue the item again in order to address some of the issues related to its DWP. The Commission continued the item to the February 15, 2012 hearing, then to the June 20, 2012 hearing, and then once more to today's hearing in support of the City's DWP request for

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additional time to further address areas of concern and to adopt its Urban Water Management Plan ("UWMP").

(It is noted that Commissioner Mitzelfelt arrives at 9:15 a.m.)

Mr. Martinez reviews the Commission's defined communities in Bear Valley on the overhead and points out the service providers along with discussion regarding the newly formed Joint Powers Authority between the Big Bear Lake Fire Protection District and Big Bear City Community Services District. He discusses the jurisdictional Issue related to the City of Big Bear Lake.

Mr. Martinez reviews the background on the issues that stem from the City's incorporation when its northern boundary was established utilizing the former Sanitation District's boundaries along the shoreline of Big Bear Lake. This boundary was set at an elevation point which has created issues related to actual parcel boundaries. In addition, due to dredging activities in the lake through the years, the lakeshore has been altered through reclamation with multiple structures and marinas currently existing along the lakeshore. These structures, which can sometimes straddle the line between County and the City boundaries, have caused disagreement as to which agency has jurisdictional authority to approve or regulate the structures built on these lands. As a result, some of these structures have been built without any environmental review and/or appropriate permits.

Mr. Martinez states that it is LAFCO staff's view that there are two options available to eliminate or minimize these jurisdictional issues: (1) the first would be to annex the City's existing sphere of influence within the lake. This would alleviate any jurisdictional confusion. The change of organization would qualify for a reduced fee to clarify the services responsibilities in the area. Or (2) the second would be for the agencies to enter into a more comprehensive Memorandum of Understanding ("MOU"). There is currently an MOU in place between the County, the City and the MWD. The current agreement was entered into in order to ensure that the structures along the lakeshore were in conformance with applicable codes; it only addresses plan checking, permitting, and inspection responsibilities between the County, the City, and the MWD. A more comprehensive MOU would allow for a clear guidance in the matters of development related and land use issues.

Mr. Martinez says that it is LAFCO staff's position that option 1 is the most desirable to clear up the issue of jurisdiction. However, if annexation is not pursued the agencies should consider a more comprehensive agreement that would also address CEQA review requirements, service provision, and development standards along the lakeshore. Mr. Martinez notes that as of the hearing, the City has not informed LAFCO of its preference on how it wishes to resolve this issue.

Mr. Martinez states that for the service review LAFCO staff has prepared updated Growth and Population Projections, the location and characteristic of Disadvantaged Unincorporated Communities within or contiguous to the sphere, present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies along with the financial ability of agencies to provide service, the status of and opportunities for shared facilities and finally the accountability for community service needs including Governmental structure and operational efficiencies.

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Mr. Martinez states that with regards to water service, the City of Big Bear Lake Department of Water and Power (DWP) review has been updated to include the 2010 Urban Water Management Plan.

He states that LAFCO and DWP staff have worked during the continuations of this service review to define the water service area inside and outside of the city's boundaries. As outlined, the DWP serves extensive areas outside City boundaries within the Fawnskin, Moonridge, Erwin Lake and Lake Williams areas. He states that this process has been finalized and the service boundaries have been identified. The PowerPoint presentation outlines the areas of service proposed to be established by the Commission as existing prior to January 1, 2001 and grandfathered pursuant to Govt. Code Section 56133.

Mr. Martinez states that the City of Big Bear Lake Department of Water and Power (DWP) has identified that it has been negotiating with the property owners of Camp Oakes regarding a mutually beneficial project in the community of Lake Williams. The DWP is interested in drilling a well within the camp property to service the community. Camp Oakes has also expressed interest in being served by the DWP. LAFCO staff has been informed that an agreement is currently under development between these entities staff supports the request.

Mr. Martinez states that in addition the City's DWP would like to serve the balance of the proposed High Timber Ranch project, located within the Moonridge community. He identified that it is not currently being developed nor is development anticipated any time soon due to the current economic conditions. However, the parcel is adjacent to the DWP's facilities but within the Big Bear City CSD boundaries. LAFCO staff has acknowledged to the DWP that it will support its request for conditional approval for inclusion of the High Timber Ranch parcel, if at the time of request the Big Bear City CSD indicates its inability to serve and consents to the DWP extension of service to the project. The process outlined would require the DWP to return to the commission for approval.

He states that LAFCO staff is recommending that the commission acknowledge the reviewed areas as the service area for the City's DWP through the City's Service Review/sphere of influence update.

Mr. Martinez states that for the Sphere of Influence update, LAFCO staff is recommending the following amendments: Expand the sphere for the City along the West toward Big Bear Dam to include the area currently within the Big Bear Lake FPD's existing boundary and include a portion of the lake. The intent is to maintain the City's sphere of influence at the centerline of the lake, which reduces any potential service delivery confusion along the shoreline of the lake. The lands within the sphere of influence expansion are government land with substantial residential development through assignment of possessory interests through government leases. These lands have substantial development ranging from modest cabins with an estimated value of \$15,000 to large scale residential construction with an assessed value approaching \$300,000. Expansion of the sphere for the City to the south is proposed to include an area currently within the Big Bear FPD's existing sphere of influence. The lands included within this area are comprised of government parcels with no possessory interest assignments known to LAFCO staff.

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Mr. Martinez states that the City of Big Bear Lake submitted a letter to LAFCO dated July 25, 2011 listing its comments and concerns on the draft staff report as to the question of expanding the sphere of influence to include the government lands, specifically lands held by the US Forest Service, to the west and south. The City's concerns are that development of the possessory interest leases of government lands are not subject to the standards of the County or in the future, the City, thereby creating conflicts. The City requests that the lands not be included within its sphere of influence. LAFCO staff concurs with the concerns expressed, but would identify that the concept of MOUs utilized for dock and other development between the County, City and MWD could be sought for the land leases on federal land.

Mr. Martinez summarizes the recommendations.

Chairman Curatalo calls for questions or comments from the Commission.

Commissioner Cox asks if the City of Big Bear Lake is opposed to the sphere expansion. Mr. Martinez responds in the affirmative. He states that its concern is the lack of land use jurisdiction within the National Forest; however, LAFCO staff believes that through an MOU with the National Forest service, it could provide services needed to that area. Commissioner Cox asks if there are issues for both of the areas of the sphere expansion. Mr. Martinez states that the City is opposed to the expansion of both areas. Commissioner Cox states that she is reluctant to force a sphere expansion to an established City if it is opposed to it. She asks to hear comments and input from the city.

Executive Officer Kathleen Rollings-McDonald states that Area 1 is currently part of the Big Bear Lake Fire Protection District which is a subsidiary district of the city. She states that the City will point out its opposition is due to planning issues however, the city currently provides municipal services to the entirety of the area, such as fire protection, and if the National Forest developments should require water services they would have to go to the City of Big Bear Lake for that services. Ms. McDonald notes that the expansion would only include developed areas that the City currently services for fire service.

Commissioner Bagley states that the land use pattern in area 2 is diverse. He asks if they are lots with homes or leases with the resorts. Mr. Martinez states that the area has lots with cabins and that the DWP has noted that it does not serve the lots outside of the proposed expansion area. Commissioner Bagley asks if the lots have established water service in the area. Mr. Martinez confirms that there is. Commissioner Bagley asks what the length of term on the leases. Mr. Martinez states that they are perpetual.

Chairman Curatalo calls for questions from the public.

Jim Miller, Community Development Director for the City of Big Bear Lake, thanks staff for their continued help in this process. He states that the City remains opposed to the expansion of the sphere in the federal areas. The City understands LAFCO's responsibility; however SB244 has tied the housing element considerations to sphere of influence assignment. He states that the City cannot take the burden of the responsibility due to financial constraints imposed by the recession and the elimination of Redevelopment agencies. The City is concerned about what other services will be needed in the future. He states that the City currently has no interest in

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federal lands and that it is not interested in the responsibility for providing water to those areas. He reiterates that the City has no interest in expanding its Sphere of Influence at this time.

Chairman Curatalo asks the Executive Officer for her response to the issue of land use control and the impact of SB244.

Ms. McDonald states that SB244 has two general components a LAFCO component and a land use component. The LAFCO component has been defined in the commission's policy and procedure manual. It addresses the issues regarding disadvantaged unincorporated communities, the LAFCO definition of what a community is, and the 80 percent median income level. As a result of SB244, LAFCOs need to look at new factors in the service reviews which include water, wastewater, and fire protection in the disadvantaged unincorporated communities whether they are in the sphere or not. She says that in cases of an annexation, the Commission adopted policies that state that in the valley areas an annexation proposed by a city of 10 acres or more, require that the disadvantaged unincorporated community adjacent to the annexation be reviewed; for the mountains and desert the commission established that the review be for 25 acres or more for that requirement. She states that as far as the planning component of SB244 many cities object to the housing element and how they must address it.

Ms. McDonald states that the City of Big Bear Lake must plan for fire protection in area one since the fire protection district is a subsidiary district of the City. The Big Bear Lake Fire Protection District has its own local policies which are approved by its governing board which is the City of Big Bear Lake's City Council. She says that the wastewater and the septic systems along the shorelines of the lake are regulated by the environmental health services and the regional water quality control board. If there was an issue regarding pollution or other concerns, the city would be required to provide sewer services to that area. As far as water service, there is a federal system in place along with private wells and one mutual water company. If there were a problem with the mutual water company the DWP would again be required to provide water to the area.

Ms. McDonald states that outside of the planning issue, the expansion of the sphere of influence is a reasonable action since the services are already provided by the city on the south shore.

Mr. Bagley asks if the leaseholders pay property taxes. Ms. McDonald confirms that they do. He asks what the current requirement for cities are as related to the housing element, if the sphere of influence update is a requirement. Ms. McDonald states that the sphere of influence is a requirement as part of SB244. She states that locally the requirement for cities is to address their sphere of influence as part of their General Plan and Housing Element.

Chairman Curatalo asks why it is important to review the expansion of the sphere of influence this at this time. Ms. McDonald states that staff's review complies with LAFCO Policies for services reviews. Staff is directed to address each community as a whole and review the level of services provided.

Chairman Curatalo calls for further comments. There being none, Chairman Curatalo closes the public hearing.

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Commissioner Cox moves approval of the staff recommendation modified to exclude the proposed Sphere of Influence expansion, duly seconded by Commissioner McCallon.

Commissioner Bagley states that LAFCO is to look into the future when making decisions and notes that the sphere of influence is a planning tool to provide long range planning and does not mandate that the City take on the services at this time. He states that the Commission should not be short sighted in removing the sphere of influence expansion recommended by staff and that the area will be addressed again in the next round of municipal service reviews.

Commissioner McCallon states that at the time of the next round of services reviews the economic situation may be different and the city might be able to expand their service area; however, as Commission we must keep the current economic situation in mind.

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

RECONSIDERATION OF LAFCO 3152 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR TWENTYNINE PALMS PUBLIC CEMETERY DISTRICT

LAFCO conducts a continued public hearing to consider a continuation of Reconsideration of LAFCO 3152 – Service Review and Sphere of Influence Update for Twentynine Palms Public Cemetery District.

Commissioner McCallon moves approval of the staff recommendation to continue the reconsideration of LAFCO 3152 to the November meeting, second by Commissioner Rutherford.

Chairman Curatalo calls for questions or comments from the Commission. There are none.

Chairman Curatalo calls for questions from the public. There are none

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

Chairman Curatalo states that the public hearing remains open.

DISCUSSION ITEMS

NOTIFICATION OF CANCELLATION OF MEMORANDUM OF UNDERSTANDING WITH THE SAN BERNARDINO COUNTY INFORMATION SERVICES DEPARTMENT FOR INFORMATION TECHNOLOGY SERVICES

LAFCO considers discussion of the Notification of Cancellation of Memorandum of Understanding with the San Bernardino County Information Services Department for Information Technology Services.

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Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LACFO office and is made a part of the record by its reference here. She states that she received notification from the San Bernardino County Information Services Department informing LAFCO that it was exercising the termination clause of the Memorandum of Understanding between ISD and LAFCO. The termination clause requires a 90-day notice, making the end date of the contract September 30, 2012.

She states that the cancellation causes two problems; the first is that the termination will require that LAFCO pay the ISD portion of the COWCAP charge for FY 2012-13 of \$6,374 as well as the monthly charges, currently estimated to be \$12,000 for the upcoming year. Secondly, the services provided by ISD are more comprehensive than its usual contracts with outside agencies and extends to include WAN services, Desktop Support, Website Support among others. She states that the letter from ISD noted that in order to maintain services provided by ISD under the MOU LAFCO would have to pay for services as listed in the Board of Supervisor's approved Fee Ordinance beginning October 1, 2012.

Ms. McDonald states that a copy of the proposed agreement received from ISD has been sent to LAFCO's Legal Counsel for review. She states that LAFCO Legal Counsel is not in agreement with the indemnification and liability sections of the agreement. These concerns have been provided to ISD staff and County Counsel for further review. Staff is recommending that the Executive Officer be authorized to finalize the contract and to sign the Revenue Agreement once it is accepted by LAFCO Legal Counsel.

Chairman Curatalo calls for questions or comments from the Commission. There are none.

Chairman Curatalo calls for questions from the public. There are none

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

INITIATE SECOND ROUND OF SERVICE REVIEW/SPHERE OF INFLUENCE UPDATES FOR THE VALLEY REGION INCLUDING REGIONAL AGENCIES SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND COUNTY SERVICE AREA 70, AND INITIATION OF SPHERE OF INFLUENCE ESTABLISHMENT FOR THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA WITHIN SAN BERNARDINO COUNTY

LAFCO considers the Initiation of the second cycle of Service Review/Sphere of Influence updates, beginning with the Valley region including regional agencies, San Bernardino County Fire Protection District and County Service Area 70, and the Initiation of Sphere of Influence establishment for the Metropolitan Water District of Southern California within San Bernardino County.

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. She states that staff is proposing that the Commission initiate its second cycle of service reviews beginning with the Valley Region. The first cycle of reviews established or amended the communities within the

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County under the Commission's Sphere of Influence policies. She states that as the first series of reviews comes to an end, LAFCO staff will bring to the Commission a report that will bring closure to the first municipal review cycle.

Ms. McDonald states that staff is proposing that the second cycle of service reviews be addressed on a service-by-service basis as outlined in the OPR Guidelines adopted by the Commission to concentrate the discussion on issues of efficiency and sustainability. She states that staff has identified the services to be reviewed as generally – water, including retail, wholesale and reclamation; sewer, including treatment, collections and recycled water; Fire Protection, emergency medical response and ambulance service; Park and Recreation; Law Enforcement; Flood Control; Solid Waste; and other miscellaneous such as streetlighting, detention basin management, cemetery, open space and habitat preservation, healthcare, and roads not within a city or county maintained system.

Ms. McDonald states that staff is proposing to establish stakeholder groups for each of the major services identified. In an effort to coordinate the LAFCO policies and the County Vision project, staff will be attempting to coordinate with the various elements of the County's project through its current nine Vision elements. She states that this method will allow LAFCO staff to use data and documents already established by the Cities and the County. She states that currently, LAFCO staff is participating in the Water Element stakeholders group and will be seeking participants for the Service Review Water Stakeholder Group from that membership. She states that staff will be including private water companies and mutual water companies within the region. Currently staff is working with the mutual water companies to comply with the provisions of AB 54 for submission of service area maps by December 31, 2012.

Ms. McDonald states that as part of the next round of reviews, staff is proposing that the Commission approve the development of two databases. She states that a proposed shared service inventory be developed to allow our agencies to see what is available when the need arises. She states that staff is also proposing the development of a fiscal trend analysis which will provide several key indicators in an easy to view and understand format. Staff is proposing that the Commission contract with Orange LAFCO in order to acquire and utilize the proprietary programs it has developed. This will enable staff to build upon the platform for specific San Bernardino LAFCO and County needs rather than design from scratch a program. Ms. McDonald states that the acquisition and training for the Orange LAFCO programs is estimated to be in the range of \$2,500.

Ms. McDonald reviews on the overhead the maps of the agencies in the Valley region slated for the second cycle review and an example of the Orange LAFCO Fiscal Trend Analysis.

Ms. McDonald summarizes staff's recommendation which is to: Initiate the second cycle of service reviews required by Government Code Section 56430 for all cities and special districts located in the Valley Region and direct staff to establish a stakeholders group for each of the primary services to be reviewed; direct staff to utilize, where available, the County Vision Project Element Committees to draw for stakeholder group membership; and, direct staff to work with Orange County LAFCO to acquire the necessary software and receive training on developing a shared services matrix and fiscal trend analysis program and return with a contract for review and approval by the Commission as soon as possible.

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Chairman Curatalo calls for questions or comments from the Commission.

Commissioner Cox asks about the staff resources available to complete the databases identified. She states that the amount of labor the maintenance and updating of the database systems will require should be taken into consideration so that it is not a burden to staff. Ms. McDonald states that once the initial data set is complete, maintenance will not be burdensome due to the fact that the system is already developed and updates will be easily merged.

Commissioner Rutherford asks if staff is precluded from using information from other sources. Ms. McDonald states that staff is not precluded and adds that the Commission is only required to review and update each sphere of influence as necessary. She states that staff anticipates that only a portion of the agencies will require further sphere of influence updates in the second round. Commissioner Rutherford states that SANBAG has also developed a similar program and that perhaps staff can also incorporate the data from SANBAG into the new shared services matrix and fiscal trend analysis program and share information. Ms. McDonald states that LAFCO has worked with SANBAG in the past and is willing to work with SANBAG again in an effort to share information.

Chairman Curatalo asks if other LAFCOs are using the regional approach to the service reviews. Ms. McDonald states that conducting the reviews by regions makes sense in San Bernardino County because of the size and diversity of the county. Other counties do not have the same size or diversity issues that San Bernardino County has so service reviews are conducted differently.

Chairman Curatalo states that the regional approach is a good idea and asks for a very brief overview of how the stakeholder group is envisioned by staff. Ms. McDonald states that the stakeholder groups will be organized by service so that staff can address the issues of efficiency, effectiveness and sustainability with groups made up of about nine members. She states that staff does not want to limit the stakeholder groups however it is important that the group remain manageable.

Commissioner Mitzelfelt asks if there are any other LAFCOs pursuing help from Orange LAFCOs with regards to the databases. Ms. McDonald states that Yolo and other LAFCOs have stated an interest.

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

**STATUS REPORT ON RIM OF THE WORLD RECREATION AND PARK DISTRICT
COMPLIANCE WITH LAFCO CONDITIONS**

LAFCO considers discussion of the status report on Rim of the World Recreation and Park District.

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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. She reviews the conditions from the sphere of influence update. She says that the District was required to provide an outline for completion of its outstanding audits within the two year time frame. She reports that at the January 2012 hearing, staff reviewed with the Commission the progress of the District in meeting conditions outlined the previous year. The District had met all the conditions except those dealing with its outstanding audits. She says that the Audits for Fiscal Years 2006-07, 2007-08, 2008-09 and 2009-10 have been completed.

Ms. McDonald states that staff has discussed with the District the issue of adopting a budget without having a full and complete understanding of the district's financial position. No management discussion and analysis is included in the Audits to provide a context for the financial statement as is generally required by accounting standards. The District has ended each of the fiscal years expending more than the budgeted appropriation authorized. She states that both of these issues have been discussed with District staff and that the corrections and new implementation standards are to be included in the upcoming audits, budgets, and financial reports. The financial reports required under condition one have been received and reviewed by LAFCO staff and the District has made significant progress. She says that receipt of the 2010-11 and 2011-12 audits will complete condition no. 2 for the District and the District staff has confirmed that it has engaged a firm to perform the audits.

Ms. McDonald states that the District has made significant progress and will be making its final payment to the County for its bridge loan in 2012-13, freeing up funds needed to supply more activities. In addition, the District has been diligently working towards paying other debts that had accumulated and are moving forward to complete deferred maintenance.

Ms. McDonald states that staff became aware of a new issue related to the lease with the County Regional Parks for the use of the Crestline ballfields located at the Lake Gregory Regional Park. The County Executive Officer has directed all non-essential county service providers that they must move in a path toward sustainability outside the general fund. As a result, the County has issued a Request for Proposal (RFP) for operation of the park.

This will change the District's operations in two ways. First it will reduce the facilities offered in the Crest Forest community and secondly, it will require that the District repay the State Parks Department the \$13,991 received for the Lake Gregory Park Project from the 2000 State Park Bond Act proceeds. According to the State Parks Department, the facility must remain open to the public for a period of 10 year following the date of final payment. The RFP materials identify the potential for repayment of the Grant Funding as part of the Concessionaire contract if the proposed operations restrict public access to the facility.

Ms. McDonald states that Rim of the World Recreation and Park District has prepared a presentation for the Commission. She introduces Karen Reams, Rim of the World Recreation and Park District General Manager. Ms. Reams presents a power point slide show to the Commission outlining its services and the improvements made over the last year or so.

Ms. McDonald summarizes staff recommendations which are to: direct staff to continue to monitor the District's compliance with the conditions outlined in Resolution No. 3095 related to the completion of Audits as outlined in the report; set another status report for presentation at

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the July 2013 hearing or upon completion of the outstanding audits, whichever occurs first; and, note receipt of the Status Report and file.

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

REVIEW AND CONSIDERATION OF AMENDMENTS TO LAFCO CONFLICT OF INTEREST CODE

LAFCO considers discussion of the review and consideration of Amendments to LAFCO Conflict of Interest Code. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation in the areas required by law.

Project Manager Michael Tuerpe 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. He states that the Political Reform Act requires that every local government agency review its conflict of interest code biennially. There are three types of changes, substantive, which requires board approval; non-substantive, which does not require board approval; and no change.

He says that the change for 2012 is a non-substantive change, which does not require Commission approval. However, the matter is being presented to the Commission for its review. The amendment will include first a change in the titles of two existing positions and second, will include clarifying language as provided by the Fair Political Practice Commission. Mr. Tuerpe states that LAFCO participates in Best, Best and Krieger's Public Law Update program and Best, Best and Krieger has prepared the package on LAFCOs behalf for submission to the Clerk of the Board.

Mr. Tuerpe summarizes the staff recommendations which are: Review the non-substantive changes to the Conflict of Interest Code and provide staff with any additional changes; and direct the Executive Officer, in coordination with Best, Best, and Krieger, to file the "2012 Local Agency Biennial Notice" form and forward the amended Conflict of Interest Code to the Clerk of the Board.

Chairman Curatalo calls for questions or comments from the Commission. There are none.

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

INFORMATION ITEMS

PENDING LEGISLATION

Ms. McDonald reports that staff has provided the Commission with the CALAFCO Daily Legislative Report. She says AB 2238 (Perea) has been amended to address the concerns

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raised by LAFCO. CALAFCO continues to monitor this bill to make sure that no LAFCO related language is added back in.

She says that most of the other bills affecting LAFCO have died, including AB 1566 (Negrete McLeod). She states that currently negotiations are taking place with the State legislature, Riverside County, and the four cities that were affected by SB 1566 to come up with a means to help to make them sustainable. However, it will mean that some revenues from realignment or some other source would have to be used so a resolution is highly unlikely.

Ms. McDonald states that the Legislative Platform for next year anticipated by CALAFCO is to look for potential for fixes to the statutes related to disincorporation or consolidation of cities. Ms. McDonald notes that at each Commissioner's place staff has placed a copy of the comprehensive document created from the discussion and legislative questions from the CALAFCO University Workshop held on June 29, 2012. It outlines issues and items that will be taken to the legislative committee in the upcoming year. She notes that one important item identified at the University Workshop relates to the Revenue and Taxation Code Section 99 for property tax determinations for disincorporations and consolidations. Since a disincorporation is the reversal of incorporation, it is being suggested that these actions should be removed from the Revenue and Taxation code section 99 and included in the LAFCO statute for determination.

Commissioner Mitzelfelt asks what the status of the Governance Reform for the State is. Ms. McDonald states that no reports of progress have been forwarded to the LAFCOs.

SELECTION OF VOTING DELEGATES FOR CALAFCO ANNUAL CONFERENCE BUSINESS MEETING AND SOUTHERN CALIFORNIA CAUCUS

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFO office and is made a part of the record by its reference here. She says that it is her recommendation that Chairman Curatalo serve as the primary delegate and that Ms. McDonald serve as the Alternate.

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

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that the September hearing has been cancelled and that the next hearing will be on the 17th of October. She also informs the Commission that the date for the November hearing may be changed to the 28th, depending on the Commissioner's schedules.

She states that at the last quarterly Coalition of California LAFCOs (CCL) Chairman Curatalo was voted President of the Board of Directors for CCL. She also says that Samuel Martinez, Assistant Executive Officer will be nominated for the CALAFCO Southern Section Deputy Executive Officer position for CALAFCO. She says that the positions of Public and City Member for the CALAFCO Southern Section are also open for nominations and that the position of Supervisorial member maybe be opening for nomination as well.

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Chairman Curatalo states that as a Member of the San Bernardino County LAFCO, he is pleased with the respect that this LAFCO has achieved from the other LAFCOs throughout the State and that it is a reflection of the Executive Officer's hard work and dedication. He states that this gives the Commission an opportunity to be proactive and work for the betterment of the constituents that the Commission serves.

Ms. McDonald states that with the City of San Bernardino declaring bankruptcy it is most likely that LAFCO will not receive its apportionment for FY 2012-13. The amount is approximately 14% of the city share of the LAFCO budget which comes to about \$38K. She states that she has made several attempts to communicate with the City of San Bernardino regarding this issue, but so far no information has been delivered to LAFCO. She says that the LAFCO budget has a cash carry-over outside that anticipated in the budget process from last fiscal year of about \$50K and with the lack of apportionment from the City of San Bernardino and with the new requirement to pay for the ISD Services, that carry-over is spent.

Commissioner Mitzelfelt asks if there is any way that the auditor controller could move those monies from the City to LAFCO. Ms. McDonald states that the payments are due on September 1st and that during the October Hearing staff will present a report that will list the outstanding payments pending. At that time staff will recommend that the Commission direct the County Auditor to transfer those monies and if the City of San Bernardino has not paid its share, they will be included on that list. However, federal bankruptcy law trumps state law so the attempt might be futile.

Commissioner Mitzelfelt informs staff that there is a meeting currently scheduled for November 28 and that rescheduling the November Hearing could be problematic. Ms. McDonald states that staff will work with the scheduling conflicts and try to accommodate everyone.

Ms. McDonald states that LAFCO staff has received a number of emails, letters and documents regarding alleged improper activities of the Newberry CSD from various board members and members of the public. LAFCO staff has informed those providing the information that the appropriate venue for these allegations is with the Grand Jury and/or with the District Attorney's Public Integrity Unit.

Ms. McDonald states LAFCO will be receiving a proposal regarding the transfer of fire function from the Twentynine Palms Water District to County Fire. She states that staff has been working with the District, County Fire and the City of Twentynine Palms to address the sustainability of this project.

Ms. McDonald states that in regard to the Sphere Memorandum of Understanding (MOU) with the surrounding counties, LAFCO will be receiving the MOU from Inyo County for signing in the next few weeks; however, Kern LAFCO will not be participating. She has asked Kern LAFCO for a formal letter outlining that Commission's objections to the MOU. LAFCO has signed agreements with Riverside LAFCO, Orange LAFCO and Los Angeles LAFCO currently.

Commissioner Cox asks what nominations for awards were submitted to CALAFCO. Ms. McDonald states that Commissioner Mitzelfelt was entered in three different categories.

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COMMISSIONER COMMENTS

Commissioner McCallon thanks and congratulates staff on their work on the Big Bear Lake Service Review. He states that the Commission's decision not to approve staff recommendation was in no way a reflection of staff performance and acknowledges the great work that staff accomplishes and that the Commission appreciates staff's efforts.

Chairman Curatalo states the former Commissioner Ginger Coleman will be missed and thanks Commissioner Williams for stepping up to that spot at the dais.

Chairman Curatalo asks for staff to place on the next appropriate agenda a resolution that will state that the Commission's intent is to continue to conduct their hearings in adherence to the rules of the Brown Act. Ms. McDonald states that the Commission can request that resolution; however, the Commission's current policies and procedure require it to follow the Brown Act.

COMMENTS FROM THE PUBLIC

There are none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 10:49 A.M. TO THE CALIFORNIA ASSOCIATION OF LAFCOS 2012 ANNUAL CONFERENCE IN MONTEREY OCTOBER 3 THROUGH OCTOBER 5, 2012

ATTEST:

REBECCA LOWERY
Deputy Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman