

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF OCTOBER 17, 2012**

REGULAR MEETING

9:00 A.M.

OCTOBER 17, 2012

PRESENT:

COMMISSIONERS: Jim Bagley
James Curatalo, Chairman
Brad Mitzelfelt
Janice Rutherford
Kimberly Cox, Vice-Chairman
Sunil Sethi, Alternate
Diane Williams

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

ABSENT:

COMMISSIONERS: Larry McCallon
Neil Derry, Alternate
Robert Smith, Alternate

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION
COMMISSION – CALL TO ORDER – 9:09 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. Commissioners Mitzelfelt and Rutherford state that they have a conflict on item number 7, the Reorganization to include annexations to the Hesperia Water District and Detachments from County Service Area 70 and Zone J (Water Service) and will be abstaining on this item.

SWEAR IN REGULAR CITY MEMBER OF THE COMMISSION

Ms. Rebecca Lowery, Clerk to the Commission, administers the Oath of Office to Diane Williams, Regular City Member. Ms. Williams will serve the unexpired Term of Office for Ms. Ginger Coleman, expiring in May 2016.

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CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

2. Approval of Minutes for Regular Meeting of August 15, 2012
3. Approval of Executive Officer's Expense Report
4. Ratify Payments as Reconciled for the Months of July and August 2012 and Note Cash Receipts

LAFCO considers the items listed under its consent calendar which includes a Visa Justification and an amended Executive Officer's expense report and a staff report outlining the staff recommendations for the reconciled payments. Copies of each report are on file in the LAFCO office and are made a part of the record by their reference herein.

Executive Officer Kathleen Rollings-McDonald requests deferral of Item #5, the collection of outstanding city and/or district apportionment amounts from the First Proceeds of Tax Revenues for Fiscal Year 2012-13 from the County Auditor-Controller/Treasurer/Tax Collector for discussion.

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

PUBLIC HEARING ITEMS:

CONSENT ITEMS DEFERRED FOR DISCUSSION

**REVIEW AND APPROVE REQUEST TO COUNTY AUDITOR-
CONTROLLER/TREASURER/TAX COLLECTOR TO COLLECT OUTSTANDING CITY
AND/OR DISTRICT APPORTIONMENT AMOUNTS FROM FIRST PROCEEDS OF
TAX REVENUES FOR FISCAL YEAR 2012-13**

LAFCO conducts a public hearing to consider the Review and Approval of the Request to County Auditor Controller/Treasurer/Tax Collector to collect outstanding City and/or District apportionment amount form the first proceeds of tax revenues for Fiscal Year 2012-13.

Executive Officer Kathleen Rollings-McDonald presents the staff report a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. She states that the request to the County Auditor to collect outstanding apportionment amounts not yet paid to LAFCO is a standard annual item that is presented to the Commission pursuant to Government Code Section 56381. The materials presented to the Commission recommended three actions in order to collect the outstanding apportionment amounts. She states that in discussions with LAFCO Legal Counsel Clark Alsop, who has discussed the matter with the bankruptcy experts at Best, Best and Krieger, it has come to her attention that the recommendations for this

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item need to be modified to remove any language that references that the City of San Bernardino apportionment be taken from the first proceeds of taxes. She requests the following modifications to the recommendation: Recommendation number one – the language that states “*including the amount apportioned to the City of San Bernardino unless it is precluded from doing so by federal bankruptcy law*” be deleted from the recommendation, and the addition of recommendation number four to read as follows – “To direct the Executive Officer in conjunction with Legal Counsel to take all appropriate actions to collect the apportionment amount due from the City of San Bernardino to LAFCO.”

She states that the Commission is aware of the filing for bankruptcy by the City of San Bernardino. In consultation with Legal Counsel it has been determined that federal bankruptcy law trumps state law so any reference to an action against the City of San Bernardino must be removed. LAFCO staff has asked the City of San Bernardino if they have included LAFCO as a creditor in their bankruptcy. However to date, LAFCO has not received notice that it is a creditor in the bankruptcy court filing nor has LAFCO had a reply from the City on the status of payment. She says that at this time staff believes that there is a strong likelihood that the Commission will not receive the City’s share of the apportionment and that the Commission will need to take measures to address the shortfall. This topic will be discussed during the first quarter financial report scheduled for Commission consideration at the November hearing.

Chairman Curatalo asks for questions and comments from the Commission. Commissioner Cox asks how the modification will affect the Commission’s ability and likelihood to collect funds due to LAFCO from the City of San Bernardino; what the chances are of recovering at least a percentage of the outstanding fees.

Clark Alsop, LAFCO Legal Counsel, states that the City of San Bernardino owes the Commission the LAFCO apportionment which is approximately \$38,000. Under ordinary circumstances the Commission would direct the Auditor-Controller to recoup the monies from the first proceeds of property taxes. However, due to the automatic stay in the City of San Bernardino’s filing for bankruptcy, no such action can take place so the request is to direct the Executive Officer to work with legal counsel through the bankruptcy process to recover the monies. He states that he cannot speculate on the outcome of the bankruptcy proceedings and whether it will be effective in recovering any of the monies due to LAFCO.

Commissioner Cox comments that the large deficit in the budget may need to be redistributed to the cities and special districts.

Mr. Alsop states that the Executive Officer will be addressing those questions and issues during the first quarter financial review, which is schedule for the November hearing agenda.

Ms. McDonald states that more information is necessary in order to present the Commission with options and an action plan with regards to the LAFCO Budget. There are reserves in the LAFCO contingency budget that may be used if needed to support

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the 2012-13 fiscal year. She states that staff will gather information and make their recommendations to the Commission in November. She notes that the State law does not allow LAFCO to return to the cities and special districts to redistribute the delinquent funds. In addition, staff must look forward and take into consideration the possibility of more cities filing for bankruptcy in the coming years. LAFCO staff will take the Commission's concerns into consideration while reviewing the information for the budget quarterly review and for the projected budgets to come.

Commissioner Bagley asks whether LAFCO is currently listed as creditor on the City of San Bernardino's bankruptcy listing and whether one has to be listed in order to collect funds from the bankruptcy courts. He states that LAFCO is on track in keeping informed of the proceedings and documentation. Mr. Alsop responds that part of the discussions with the bankruptcy attorneys will be to determine what rights LAFCO has within the confines of bankruptcy law. Mr. Alsop states that it is necessary to give broad direction to the Executive Officer since this is a new challenge for the Commission.

Ms. McDonald states that LAFCO staff has not discovered any recorded documents where LAFCO has been listed as a creditor; staff has tried to contact the City to ask questions and has received no response. It is important that legal counsel guide staff in the collection process where a bankruptcy is concerned and also that it is important to acknowledge that it would not be prudent to overspend in order to collect what might be a small portion of the outstanding apportionment. She says that it will be an educational process for the Commission and that given the current economic environment it may not be the last time the Commission faces a bankruptcy filing by a city or district. Ms. McDonald states that it would be best to set out an informed process for bankruptcy issues.

Commissioner Bagley states that the Commission should take into consideration the development of a policy related to bankruptcy and the legal process of collecting monies owed under the bankruptcy conditions. Ms. McDonald states that this an unprecedented issue and that she found it interesting that in the cases of the Cities of Vallejo and Stockton, those cities paid their LAFCO apportionments when they went through their bankruptcy and had not listed LAFCO as a creditor. She says that as usual, the Commission is breaking new ground and she wants to ensure that as the Commission proceeds it remains well informed of its legal rights and processes.

Commissioner Cox states that moving forward the Commission should not count on any monies being received from the City of San Bernardino and if monies are received that they should be set aside for future emergency use.

Ms. McDonald states that the Commission has been very prudent in setting aside reserves and categorizing its general funds and those funds will accommodate the current budget, but going forward, the budget needs to be reviewed and developed keeping the current and future economic environment in mind.

Chairman Curatalo states that given the uncertainty of the future it is important to stay strategically proactive and try to anticipate future legislation that might aid LAFCO. He

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asks Ms. McDonald if other LAFCOs are facing the same issue. Ms. McDonald states that there are other cities, such as the City of Atwater, that have declared fiscal emergencies, but have managed to pay their apportionment. She says that currently, San Bernardino LAFCO is the only LAFCO facing non-payment of an apportionment due to the filing of a city bankruptcy. She says that the Commission should be aware that the City of San Bernardino may not be the only city in the San Bernardino County that will declare a fiscal emergency and that the Commission must keep that in mind as staff prepares future budgets and puts a policy and procedure in place to direct the Commission in future fiscal emergency situations.

Commissioner Bagley asks if the current Commission Policy and Procedures address the non-payment of fees for proposal applications received. He asks if there is a written policy that states the condition that all fees must be paid. Ms. McDonald states that the current policies require the payment of application fees, but do not make reference to the payment of apportionment issues. Commissioner Bagley states that the Commission might want to consider the addition of language to the existing policies that would allow staff the ability to recover fees due from municipalities prior to consideration of a pending application. Mr. Alsop states that the Commission must bear in mind that there is a distinction for municipalities that don't want to pay LAFCO fees and those who can stand behind federal law in their inability to pay. Ms. McDonald states that staff will review the policies and present the Commission with a draft policy once more information becomes available.

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

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3166;
AND (2) LAFCO 3166 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE
HESPERIA WATER DISTRICT AND DETACHMENTS FROM COUNTY SERVICE
AREA 70 AND ITS ZONE J (WATER SERVICE)**

LAFCO conducts a public hearing to consider the CEQA statutory exemption for LAFCO 3166; and LAFCO 3166 – Reorganization to include Annexations to the Hesperia Water District and detachments from County Service Area 70 and its zone J (water service)

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Notice of the hearing was advertised as required by law through publication of a 1/8th page legal advertisement in *The Daily Press*, a newspaper of general circulation in the reorganization area in-lieu of individual notice as allowed under Government Code Section 56157. Individual notice was provided to affected and interested agencies, County departments and those individuals and agencies having requested such notification.

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It is noted that Commissioners Mitzelfelt and Rutherford abstain from the item and leave the dais.

Executive Officer Kathleen Rollings-McDonald states that LAFCO 3166 was a direct result of the Commission's Hesperia Community Service Review. During the service review it was noted that there were development projects requiring water and sewer service from the Hesperia Water District that were in the jurisdiction of the City but outside of the water district boundaries. The city and water district agreed that annexation of the area to the District would be the best alternative to resolve the issues noted during the service review. LAFCO 3166 will allow the Water District to provide for the coordinated development of municipal services for the area and detach it from CSA 70 Zone J, the retail water provider for the unincorporated Oak Hills Community.

Ms. McDonald states that when the Commission considers a proposal it is required to review four main factors; Boundaries, Land Use, Services and Environmental Considerations. Ms. McDonald states that the area proposed for reorganization was modified by LAFCO staff to clarify water responsibility in this area; as modified it now includes five separate areas that encompass approximately 1,553 acres. The areas proposed for detachment from CSA 70 and its Zone J are all located within the City of Hesperia's boundaries.

Ms. McDonald reviews the proposal area maps on the overhead and also presents a flyover of the area.

Ms. McDonald states that as far as the review of land use for the reorganization area, as modified, it is wholly within the City of Hesperia, which has an adopted General Plan identifying the land uses for the area and that the change of organization will not have an effect on the City General Plan.

Ms. McDonald states that with regard to the delivery of service and its effect on other local government service providers, the County of San Bernardino's Special Districts Department made the request that the transmission lines and pumping lanes for service to the balance of the Zone J system be protected following the completion of the reorganization. She says that LAFCO staff has made provision for this request as a condition of approval for the reorganization that states that the existing Zone J service connections within Area 1 shall continue without impediment until such time as agreement for transfer of service is agreed to between CSA 70 Zone J and the Water District and the retention of the pumping lanes and transmission lines identified as critical to the CSA 70 Zone J operations.

Ms. McDonald states that during the processing of the proposal, LAFCO staff became aware of an existing County of San Bernardino loan with the California Infrastructure and Economic Development Bank (I-Bank) for water system improvements for CSA 70 Zone J. The County of San Bernardino signed a loan, on behalf of CSA 70 Zone J, identified as the "Enterprise Fund Installment Sale Agreement" originally signed in November 2003, with two subsequent amendments, Amendment No. 1 dated September 1, 2006 and Amendment No. 2 dated October 2, 2011, as noted in

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attachment 3 to the staff report. The loan is for approximately \$2,150,000 for improvements to bring the Zone J System into compliance for minimum daily storage requirements and fire flow.

Ms. McDonald states that it was noted in the Hesperia Community Service Review, that LAFCO staff was unaware of this agreement at the time of several large annexations to the City of Hesperia in 2003 and 2004. The terms of this loan require I-Bank approval for removal of property which constitutes more than 10% of the value of the system and/or the removal of property resulting in a decrease in system revenues of more the five percent. LAFCO staff prepared a listing of the service accounts that were previously detached from CSA 70 Zone J and a listing of the service account that will be detached through the approval of LAFCO 3166. Taking those changes into account along with the addition of new connections from 2003 to present, the change will involve 91 properties or connections of the 3,055 connections reported in CSA 70 Zone J, which is 3% of the users, less than the 10% threshold requiring I-Bank approval. She states that on August 12, 2012, LAFCO staff received an email from Diane Cummings, of the I-Bank, confirming that the I-Bank would not oppose the reorganization and would not require further documentation at this time.

Ms. McDonald states the staff is recommending as a condition of approval that in the event that a future action constitutes the “disposition of property constituting more than 10% of the value of the Zone J system or the removal of property resulting in a decrease in system revenues of more than 5%” as identified in Section 6.02 of the Installment Sale Agreement between the County of San Bernardino and the I-Bank, a written confirmation from the County that the requirements of the I-Bank Installment Sales Agreement have been satisfied shall be required.

Ms. McDonald states that the Water District requested the transfer of water rights and production within the area to the District. LAFCO staff is not in agreement with this request since the Water District is not accepting any current Zone J Service connections with corresponding water production needs. She says that water rights and adjudicated free production allowance is determined based on water usage not projected water requirements; with no transfer of existing water users from CSA 70 Zone J, there is no assigned water allowance or water rights to be transferred. Based on this information, LAFCO staff has not included the request in the conditions of approval. She states that the Commission should, however, acknowledge that if in the future a need for the transfer should become necessary, that transfer would be negotiated between the County Special Districts Department on behalf of CSA 70 Zone J and the Hesperia Water District.

Ms. McDonald states that in conclusion LAFCO staff supports the modified reorganization as presented to the Commission and states that the modifications will resolve inconsistencies in the jurisdictional boundaries between the Hesperia Water District and CSA 70 Zone J.

Ms. McDonald summarizes the recommendations and notes that the request for a modified property tax transfer resolution is on calendar for approval for the Board of

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Supervisors agenda for November 6, 2012 for this proposal. She also informs the Commission that the reconsideration period for LAFCO 3166 will not commence until the final modified maps have been received and reviewed by the County Surveyor's Office

Chairman Curatalo opens the public hearing and asks for questions from the Commission. There are none. Chairman Curatalo asks for comments from the proponent.

Scott Priester, Development Services Director for the City of Hesperia and representing the Hesperia Water District, states that LAFCO 3166 initially began as a simple annexation request but in processing, grew to be a bit more complex. He states that the City has no issues with staff's recommendations and has a good working relationship with County Special Districts Department. He says that he would like to thank LAFCO staff for their hard work in this endeavor and requests that the Commission approve the proposal, as modified.

Chairman Curatalo calls for further testimony; there being none closes the public hearing.

Commissioner Cox 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 unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, Williams. Noes: None. Abstain: Mitzelfelt, Rutherford. Absent: McCallon.

CONSIDERATION OF: (1) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE COUNTY OF SAN BERNARDINO FOR CONDITIONAL USE PERMIT TO ESTABLISH A 647,244 (MAX.) SQ. FT. INDUSTRIAL BUILDING WITH 12,000 SQ. FT. OF OFFICE AREA TO BE USED AS A HIGH CUBE WAREHOUSE DISTRIBUTION FACILITY ON 31.16 ACRES AS CEQA RESPONSIBLE AGENCY FOR LAFCO SC #368; AND (2) LAFCO SC #368 - CITY OF FONTANA PRE-ANNEXATION AGREEMENT NO. 11-00002 FOR SEWER SERVICE (APN 0232-051-02, -03, -11, -12, -26, -27, -35, AND -38) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider LAFCO SC #368 – City of Fontana Pre-Annexation Agreement No. 11-00002 for Sewer Service (APN 0232-051-02, -03, -11, -12, -26, -27, -35, and -38).

Assistant Executive Officer Samuel Martinez presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here. Notice of the hearing was advertised as required by law in *The Fontana Herald*, a newspaper of general circulation. Individual notice was provided to landowners and registered voters as well as affected and interested agencies, County departments and those individuals and agencies having requested such notification.

Mr. Martinez states the City of Fontana has submitted a request for approval of a pre-annexation agreement which will allow it to extend sewer service outside its boundaries.

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The agreement relates to 8 parcels which are generally located on the east side of Sultana Avenue between Foothill and Arrow Boulevards, within the City of Fontana's western sphere of influence. He states that a Conditional Use Permit has been processed through the County's Land Use Service Department to establish an industrial building to be used as a high-cube warehouse/distribution facility. Part of the Conditions of Approval placed on this project, is the connection to the City of Fontana's wastewater collection system.

Mr. Martinez states that the project is located within the City of Fontana's Sphere of Influence and is anticipated to become part of the city in the future and that staff has reviewed this request for the provision of sewer service by the City of Fontana outside of its corporate boundaries against the criteria established by Commission policy and Government Code Section 56133. Mr. Martinez states that staff supports the City's request for authorization to provide sewer service to the proposed project since its facilities are adjacent to the anticipated development and there is no other existing entity available to provide this service within the area.

Mr. Martinez states that as far as service is concerned the proposed project will be served by extending a 24-inch sewer line approximately 400 feet along Sultana Avenue from an existing 24-inch main in Foothill Boulevard. The project also identifies an estimated cost of \$394,894 in development impact fees and sewer connection fees for the extension of sewer service to the project, which the property owner will pay. He states that in regard to the environmental assessment, the County prepared an Initial Study and a Mitigated Negative Declaration for the Conditional Use Permit and that the Commission's Environmental Consultant, Tom Dodson and Associates has reviewed the County's environmental assessment and has indicated that the County's Initial Study and Mitigated Negative Declaration are adequate for the Commission's use as a CEQA responsible agency.

Mr. Martinez states that staff recommends that the Commission authorize the out of agency sewer contract as outlined on pages 1 and 2 of the staff report.

Chairman Curatalo opens the public hearing and asks for questions from the Commission. There are none. Chairman Curatalo asks for comments from the proponent. There are none. Chairman Curatalo closed the public hearing.

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 unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, Mitzelfelt, Rutherford, Williams. Noes: None. Abstain: None. Absent: McCallon.

INFORMATION ITEMS:

**NOTICE OF RECEIPT OF PROPERTY OWNER PETITION INITIATING PROPOSAL
IDENTIFIED AS LAFCO 3171 -- REORGANIZATION TO INCLUDE DETACHMENT FROM
THE CITY OF REDLANDS AND ANNEXATION TO SAN BERNARDINO COUNTY FIRE**

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**PROTECTION DISTRICT, ITS VALLEY SERVICE ZONE, AND COUNTY SERVICE AREA 70
AND ITS ZONE EV-1 PURSUANT TO GOVERNMENT CODE SECTION 56751**

Ms. McDonald reports that the Commission has received a property owner initiated application for the detachment of approximately 13.26 acres from the City of Redlands. She states that the property owner originally looked at the possibility of annexation to the City of Redlands; however, due to statutory restrictions imposed on a sphere of influence expansion within the Doughnut Hole (Government Code Section 56425.5), the property owner was unable to move forward with that option. The only way to consolidate his landholdings and move forward with the project is to detach from the City of Redlands, so the property owner now proposes the detachment of two parcels from the City of Redlands.

Ms. McDonald reviews the area on the overhead display.

She states that Government Code 56751 sets forth a specific process for moving forward with a detachment from and City. Ms. McDonald states that it requires that any proposal submitted for detachment from a city must be presented to the Commission at the next available hearing for information purposes only and also requires that the City be notified of the 60-day time period in which the City may submit an adopted resolution requesting termination of the proceedings. If such a resolution is received by the Commission within the time period, the Commission is required to terminate the proposal. If support for the proposal from the City is received by LAFCO, or no termination is submitted within the mandatory period, staff will move forward with the consideration process including forwarding a request to the County for the preparation of the Plan for Service and fiscal impact analysis.

Ms. McDonald states that no action is required by that Commission at this time other than to note receipt of the proposal for detachment.

LEGISLATION REPORT

Executive Officer Kathleen Rollings-McDonald reports that on September 4, 2012, LAFCO staff received notification that AB 1098(Carter) had been “gutted and amended” to address the return of Motor Vehicles In-Lieu revenues taken away by adoption of SB 89 in 2011. As the Commission in the past supported SB 1566 (Negrete McLeod/Emmerson) to return the Motor Vehicle In-Lieu revenues, LAFCO staff contacted Chairman Curatalo to request a letter of support for the signing of AB 1098. The Chairman signed the letter and a copy of the notification, the letter and the response was attached to the staff report. Staff is requesting that the Commission ratify the action of the Commission Chairman in signing the letter.

Ms. McDonald also reports that the Commission is in receipt of the CALAFCO Legislative Report for the year end. She notes that in almost every case the legislation has either died or has been vetoed. She states that on November 30 the first meeting of the CALAFCO Legislative Committee will be held and that they will be meeting to discuss the platform for the next two year legislative cycle. One of the primary issues is that of amendments to Government Code Section 56133 which authorizes the ability to extend services outside its jurisdictional boundaries under Commission approval. She states that last year the CALAFCO Board supported an amendment to Government Code Section 56133 that would allow for a

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process to review outside service extensions beyond the sphere of influence, subject to making certain findings. She states that another area of concern for review and further discussion are the disincorporation statutes. She states that disincorporation was not in the forefront of the lawmakers originally updating LAFCO law, but now with the economic crisis, the issue of disincorporation is very prominent.

Ms. McDonald asks the Commission to inform her if they have any Legislative issues they want addressed.

Chairman Curatalo asks for comments from the Commission.

Commissioner Cox states that it is important that the Commission remain flexible and responsive and that she is pleased that staff was able to submit a letter of support to the Legislators.

Commissioner Williams 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 unanimously with the following vote: Ayes: Bagley, Cox, Curatalo, Mitzelfelt, Rutherford, Williams. Noes: None. Abstain: None. Absent: McCallon.

EXECUTIVE OFFICER'S ORAL REPORT

Executive Officer Kathleen Rollings-McDonald states that she has provided for the Commission a copy of the Sunset Beach annexation lawsuit decision from the appellate court which identifies that island annexations can be subject to utility tax. She says that LAFCO staff will be reviewing the information to include any changes necessary in the next policy and procedure update.

Ms. McDonald states that staff is requesting authorization for the closing of the LAFCO office for the three days that fall between the Christmas and New Year's holiday. The staff office will be closed from December 26, 2012 to January 2, 2013.

Ms. McDonald states that she had received information regarding the potential consolidation of sewer service between CSA 79, Green Valley Lake and Running Springs Water District which arose out of the Hilltop Community Service Reviews. She has participated in discussions with the Running Springs Water District and Green Valley Lake community. Ms. McDonald notes that it has been discovered that the piping for the sewers is damaged and will require significant capital improvement funds to repair the system. The district has noted that no one is currently financially able to do at this time; therefore, the negotiations for consolidation have been terminated.

Ms. McDonald states that members of the Commission attended the CALAFCO Annual conference. She also states that she has contacted the San Bernardino County Employees Retirement Association and has asked their Chief Executive Officer to present the issue of unfunded liabilities to the Commission. Staff has been made aware of issues that can bring forth the unfunded liabilities, such as consolidations and transfers of employees, and an

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overview or understanding of how to address these liabilities in possible future cases is important. She says that the presentation will be on the Commission agenda in the beginning of 2013.

COMMISSIONER COMMENTS

Commissioner Sethi states that he enjoyed his time at the CALAFCO Conference and that Executive Office Kathleen Rollings-McDonald and Assistant Executive Officer Samuel Martinez were of a great help to him during the conference. He thanks them for their assistance.

Chairman Curatalo asks the Executive Officer to draft a Resolution of Appreciation for Commission Mitzelfelt to be presented at the next hearing.

Chairman Curatalo states that the Commission is currently in audit review. He states that he is a part of the Administrative Committee which is made up of the Commission Chairman, Vice-Chairman and an appointed member of the Commission. Currently the Administrative Committee is made up of Commissioner Bagley, Vice-Chair Cox and Chairman Curatalo. This standing committee reviews audits and participates in the budget process.

Chairman Curatalo states for the record the following Commissioners attended the CALAFCO Annual Conference: Commissioners Bagley, Curatalo, Mitzelfelt, Sethi and Smith.

COMMENTS FROM THE PUBLIC

There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION,
THE HEARING IS ADJOURNED AT 10:15 A.M.**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

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JAMES CURATALO, Chairman