

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF APRIL 17, 2013**

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3158; AND (2) LAFCO 3158 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THE CITY OF NEEDLES

Executive Officer Kathleen Rollings-McDonald states that a request for continuance from First District Supervisor Robert Lovingood, Board of Supervisor member appointed to the Commission, has been received. She states that due to his absence at today's hearing, he is requesting that the Service Review for the Needles and Havasu Lake Communities be continued to the May 15, 2013 hearing so that he can be present and participate in the presentation and discussion of this review. She states that staff is recommending that the Commission honor the request of Supervisor Lovingood and continue the matter to the May 15, 2013 hearing.

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

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

CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3121; AND (B) LAFCO 3121 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 68

CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3122; AND (B) LAFCO 3122 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 69 (LAKE ARROWHEAD)

CONSIDERATION OF: (A) CEQA STATUTORY EXEMPTION FOR LAFCO 3119; AND (B) LAFCO 3119 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 59 (LAKE ARROWHEAD)

LAFCO conducts a continued public hearing to consider Mountain Region Review of Road and Snow Removal Services which includes the review of County Service Area 70 Zones R-2, R-3, R-4, R-5, R-7, R-9, R-11, R-12, R-13, R-16; R-21, R-22, R-23, R-33, R-34, R-35, R-36, R-40, R-44, R-45, R-46, and Road Services for County Service Area 79 and its Zone R-1, County Service 18, and Service Review and Sphere of Influence update/amendment for LAFCO 3121 - Service Review and Sphere of Influence Update for County Service Area 68 (Valley of the Moon), LAFCO 3122 - Service Review and Sphere of Influence Update for County Service Area 69 (Lake Arrowhead), and LAFCO 3119 - Service Review and Sphere of Influence Update for County Service Area 59 (Deer Lodge Park).

Notice of the Commission consideration of this application was published in a newspaper of general circulation within the area, *The Sun*, for the original hearing in December 2010. The matter has been continued to dates certain of March 2011, June 2011, September 2011,

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February 2012, July 2012, November 2012, and February 2013 without re-advertisement. This hearing was re-advertised for Commission consideration in a newspaper of general circulation.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a complete copy of which is on file in the LAFCO office and is made a part of the record by its reference here.

Ms. McDonald states that the presentation of this report will complete the service review and sphere of influence updates required of the Commission for the Mountain Region. She says that at the December 2010 LAFCO hearing, the Commission began its regional service review related to the provision of road and snow removal services within the Mountain Region. She states that there are four defined communities in the mountain region -- Crest Forest, Lake Arrowhead, and Hilltop, which includes Running Springs, Arrow Bear and Green Valley Lake, and Bear Valley.

She states that at the December 2010 hearing, the Commission indicated its intent to approve staff's recommendation to expand a single County Service Area sphere of influence to address the road maintenance and snow removal for the communities of Crest Forest and Lake Arrowhead, which was CSA 68. At the March 2011 hearing, the Commission continued its discussion and proposed to expand the CSA 68 sphere of influence to address the Hilltop community. During the discussion of the Bear Valley community no specific action related to expansion of the CSA 68 sphere of influence was discussed due to the location of the CSA 70 zones only within the eastern area of the community within the existing Big Bear City CSD boundary and wholly within an existing County Service Area (CSA 53) with road powers. The Commission directed that a final determination be made for the Mountain region as a whole.

She says that the mountain communities are unique, in that it is the most densely populated urban forest west of the Mississippi. She says that on several occasions the question has been asked as to whether these 4 active county service areas and 23 service zones delivering road maintenance and snow removal service in varying degrees represents the most effective and efficient mechanism to provide this essential service to the residents of the area, could a better way be developed, and does the position of a single County Service Area provide for a clearer delineation of responsibility and service pattern.

Ms. McDonald states that during the course of this review several questions have arisen which over time have been addressed or additional materials provided. Those questions are identified as follows; first, clarification was necessary of the services authorized to be provided by County Service Area 70 (the parent district for most of the Zones created for service delivery) to address snow removal. In February 2012 the Commission approved LAFCO 3162, which defined the services available for assignment as those defined in Government Code Section 25213(i) which reads: *i) The acquisition, construction, improvement, and maintenance, including, but not limited to, street sweeping and snow removal, of public streets, roads, bridges, highways, rights-of-way, easements, and any incidental works.*

She says that as the September 2011 staff report identifies, the Auditor-Controller's office was to look into the questions related to a consolidated audit for a unified agency for service as an economy of scale and how the audit charges are currently apportioned to the various districts and zones. Over the last year and half it was determined that the Auditor's office issues a single contract for preparation of all the audits for all County-governed Special Districts, including County Service Areas, Zones and Park and Recreation Districts (the San Bernardino County Fire Protection District is a separate contract). The Special Districts Department in turn apportiones the cost to each of the Districts. Based upon the questions raised by LAFCO staff and internal review of the apportionment methodology by County Special Districts, beginning in FY 2012-13 the amounts have been adjusted. Ms. McDonald states that the chart that shows how the County

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Special Districts Department is apportioning these costs can be found in the staff report.

Ms. McDonald states that there is a minimum flat charge of \$857 per zone, which is a reasonable cost for the document, but represents a significant portion of the service and supplies budget for several of the smaller districts. She says that there is no economy of scale to the charge.

LAFCO staff questioned the methodology for apportioning the indirect administrative overhead charges of the Special Districts Department to each of the agencies they administer. A methodology has been developed that will take into consideration the District Fund Allocation. She states that the spreadsheet listing the indirect costs for Administration for the Road agencies can be found on page 10 of the staff report.

Ms. McDonald states that over the course of the Mountain Road Review, LAFCO staff has questioned the application of the Gann Limit to road agencies and the methodology to apply this constitutional requirement to newly created zones. The significance of this question to application to zones is that LAFCO law (Govt. Code Section 56811) and the provisions related to implementation of the Gann limit (Government Code Section 7902.7) require a process for establishing the appropriations limit. She says that the application of this same constitutional requirement for zones for County Service Areas and other types of special districts implementing zones is, to quote LAFCO Legal Counsel, "more nuanced" since there is no specific method identified in statute directing the method. LAFCO staff, through the implementation of the service review requirements, questioned the lack of assignment of appropriation limits for zones reviewed. Upon identification of the question, the County Auditor's office, working with the Special Districts Department and the San Bernardino County Fire Protection District, has implemented the assignment of an appropriation limit for the entities.

Ms. McDonald states that the final question related to appropriation limit remaining relates to the annual requirement that the independent audits review the appropriation limit to expenditures and determine whether or not the limit was exceeded based upon the statutes. In reviewing this question related to the required annual report with representatives of the County Administrative Office assigned to Special Districts and County Auditor's office in a going forward position will include the required statements following development of the mandatory reports.

Ms. McDonald states that as a part of the December 2010 Hearing staff report, LAFCO staff identified its uncertainty regarding the potential for County liability related to the roads in an area which had been maintained or where the roads were installed by the County. She says that staff has looked at and defined the methods and provision of road service in the mountains for those not able to be part of the county maintained system; state highways are taken care of by Cal-Trans, County maintained roads are taken care of by the department of public works, and non-County maintained roads are taken care of by a myriad of efforts – home owners associations, County Service Areas, Zones of County Service Areas, a group of people buying a snow blower. Special Districts has identified that they are the entity of last resort for this service. She states that staff has concerns with this method of road maintenance with regards to liability since the County is accountable for these services. In one case, where the potential for dissolution existed, the roads had been maintained for almost fifty years, having been formed in 1966. This question was reviewed with LAFCO Legal Counsel, who provided an opinion which is included as Attachment #3 to the staff report, which states that there is no obligation to provide road maintenance service on non-county maintained roads noting liability would only exist only if "the work is not done with reasonable care and if the work leaves the road in a more dangerous or unsafe condition than it was before the work began." However, this does not answer the question of liability when the County has installed the road and has provided continuing maintenance in the ensuing years and then is financially unable to continue to provide road maintenance.

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Ms. McDonald states that AB 774 (Donnelly) has been sponsored by San Bernardino County to address this question through establishment of a procedure to announce the abandonment of maintenance of a road in a County Service Area or Zone where there are insufficient funds to perform the service. It provides a mechanism to post and inform people that if there is not the financial ability to maintain the road, the County will no longer provide the service. She says however that so long as the County's Land Use Services Department continues to allow for the development of parcels on roads that cannot be taken into the County maintained system, a method will need to be developed to provided road maintenance and snow removal.

Ms. McDonald states that she will review the relevant issues related to the service review for the mountain roads as LAFCO staff has presented to the Commission information regarding the mountain roads for the past two years.

Ms. McDonald states that first she will present the population projections. During the past two years of information gathering for the service review for the mountain roads, the four mountain communities' growth projections were reviewed by LAFCO staff. She says that page 17 of the staff report shows the projected population growth, totaling 82,253 in the year 2030. Staff took the Census data from 2010 and recalculated those numbers as required by law and projecting out to 2040, as noted on pages 18 & 19 of the staff report, showing a reduction in population in the mountains area. She says that the importance of the demographic data is that it represents the permanent population of the Mountain communities where second home and vacation homes are being converted to full-time use. The growth rate does not necessarily mean new construction; and the seasonal population and visitors are not reflected in the available demographic statistics. However, the transient population does need to be taken into account since it is estimated that the seasonal residents can approximately double or even triple the peak population.

Ms. McDonald reviews the updated financial ability of agencies to provide services by community starting with the Crest Forest Community. She states that the Crest Forest Community contains two active County Service Areas (CSA) and three Zones which provide service to approximately 25.3 miles of roads.

She says that CSA 18 is a multifunction CSA that provides park and recreation services as well as road maintenance; it maintains 17.5 miles of paved and unpaved roads and also provides for maintenance of a senior center and a park in the Cedarpines Park portion of the Crest Forest community. The budget does not identify the separation of activities nor does the audit, and the CSA is included in the Road Division of the County Special Districts Budget. CSA 18's funds are received from a share of the ad valorem property tax and a \$50 per parcel charge placed on the tax bill. Ms. McDonald reviews a map of the area and a map of the County Maintained Roads within the Crest Forest Community Area on the overhead.

Ms. McDonald reviews the budget data on the overhead and states that in reviewing the budget information for this community, staff was concerned about sustainability after looking at the fund balance reductions and the comparison of revenues versus expenditures over a five-year period. She notes that in CSA 68 there has been concern over the last two years; the District is currently facing a significant challenge due to limited resources to address issues such as culvert collapse, sinkholes, and road maintenance needs. She says that a special tax election will be going to residents in late April or early May to allow for placement on next year's tax roll (cutoff is August 11, 2013). Failure to pass the tax will call into question the continuing ability of the agency to provide road maintenance with the possibility of transitioning into an entity providing snow removal only.

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Ms. McDonald states that in R-23 there is a fluctuation between positive and negative balances for revenues; the Zone also has a special tax and a service charge. In 2001 an annexation of 25 parcels was conducted and those parcels had a special tax applied to each parcel of \$240 for an improved parcel and \$120 for unimproved parcels. LAFCO staff contacted the Special Districts Department to request clarification on how the special tax could be segregated in the Zone since there is no statutory provision to allow for a Zone within a Zone. As of the date of this report, no response has been provided. The special tax and the service charge are identified under "Current Service" for the budget and "Special Assessment" on audit report.

Ms. McDonald reviews the map for the Lake Arrowhead Community on the overhead and states that there are two active County Service Areas and eight Zones within the Lake Arrowhead community providing service to approximately 16.2 miles of roads, the majority of which are paved. She reviews a map of the Road Maintenance and Snow Removal Services in the Lake Arrowhead Community Area on the overhead.

Ms. McDonald reviews the budget data on the overhead and states that many of the Zones in this area have for the last four years operated in the negative, based on revenues versus expenditures; LAFCO staff questions the long-term sustainability of these agencies. There are questions regarding the future of the upgrades for this community due to the demise of redevelopment agencies not addressed in the staff report.

Ms. McDonald notes that R-22 identified as Twin Peaks was established by the Board of Supervisors in August 1989 to maintain 2 miles of paved roads in the Twin Peaks community on the western edge of the LAFCO defined Lake Arrowhead community. Changes that have occurred in the boundaries of R-22 are: (1) In 1995 there was an annexation to R-22 which applied the existing service charge of \$100 per parcel and (2) In 2002 there was an annexation of 14 parcels with a special tax of \$217 per parcel for the first year and \$100 each year thereafter. LAFCO staff contacted the Special Districts Department to request clarification on how the special tax and service charge could be segregated in the Zone since there is no statutory provision to have a Zone within a Zone. As of the date of this report, no response has been provided. The special tax and the service charge are identified under "Current Service" for the budget and "Special Assessment" on audit report.

Ms. McDonald reviews the map for the Hilltop community on the overhead and states that the two active Zones within the Hilltop community (running Springs/Arrowbear/Green Valley Lake) provide service to approximately 1.8 miles of roads in Running Springs and Green Valley Lake. She reviews a map of the Road Maintenance and Snow Removal Services in the Hilltop Community Area on the overhead.

Ms. McDonald reviews the budget data on the overhead and states that the R-11 Running Springs Preston area was established by action of the County of San Bernardino Board of Supervisors on July 9, 1984 to provide maintenance and snow removal for 0.75 miles of paved road. The Zone received a \$100 service charge from the 44 parcels of land to fund road maintenance and snow removal services. In 2010-11 a mailed ballot election was conducted to charge a \$500 dollar per parcel special tax to provide for road improvements for the area due to the state of disrepair of the roads. It was anticipated that a loan from the CSA revolving fund would be received in an amount of approximately \$126,518. However, the mailed ballot election held in August 2010 was unsuccessful and the zone was dissolved during FY 2010-11. In the LAFCO staff opinion, the question of liability for the roads remains unresolved. She says the spreadsheet shows the last six years of the Zone's existence as well.

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Ms. McDonald states that R-16 Running Springs was established in 1984 to maintain slightly less than one mile of road for 17 parcels. In 2001, 8 parcels in the Schoolhouse Road area were annexed to the Zone and a special tax of \$600 per parcel was approved. The services provided are road maintenance and snow removal. As the staff report identifies the Zone has expended more than the revenues received in five of the last six years reducing the fund balance anticipated to be carried forward into FY 2013-14 to \$1,025. This occurrence prompts the question about the need to reduce service levels for FY 2013-14 to live within its revenue.

Ms. McDonald reviews the map for the Bear Valley community on the overhead and states that all the Zones within the Bear Valley community are contained within the eastern end of the Valley within the existing boundaries of the Big Bear City Community Services District. During the August 2011 review of the Bear Valley community it was identified that LAFCO staff had reviewed the question with the Big Bear City CSD of assuming the road maintenance and snow removal responsibilities provided by the Zones of CSA 70 administered by the County. The Big Bear City CSD opposed such a service responsibility transfer on the basis of the liability that would have to be assumed by the District and the question of adequate financing for service.

She reviews a map of the Road Maintenance and Snow Removal Services in the Bear Valley Community Area on the overhead.

She reviews R-5 Sugarloaf and states that it was formed by an action of the Board of Supervisors in March 1980 to maintain 20.9 miles of road unpaved roads. This zone has an advisory Commission that works with Special Districts on issues regarding road maintenance. Assessment District 91-1 was formed to fund the paving of the road system. In 1993, 20.9 miles of road were paved with maintenance to be funded by a special tax. Of note, the Audit prepared for this zone identifies that 23 miles of road are maintained by the District as compared to the 20.9 miles identified in budget materials. LAFCO staff has identified that R-5 has a significant internal island of territory which contains County maintained roads which currently provides snow removal through a contract between the County Public Works Department and County Special Districts Department. The payments for these services are accounted for in the general CSA 70 financial statements. In addition, LAFCO staff is unaware of how this internal exclusion had roads built to County standards while the rest of the District surrounding it does not. She says this is a liability question for the County and needs to be addressed.

Ms. McDonald reviews the budget data on the overhead and states that for R-5 there was only one year where the fund balance was in the negative, due to monies to fund road improvements. She says that the fund balance change in FY 07/08 was due to monies used to fund the road paving services.

Ms. McDonald discusses the prescriptive right for maintenance and improvement of public roads. She reviews the map of the Crest Forest Community on the overhead and notes that the area in CSA 70 R-2 Twin Peaks was originally established in November 1974 to provide road maintenance and snow removal to 1.5 miles of paved roads. The roads within CSA 70 R-2 are not shown on parcel maps in the area as public roads, but County Special Districts Department personnel have indicated that there are prescriptive rights for public use. Prescriptive rights are not dedicated roads, they are easements on properties, they are not included on parcel maps and have not been perfected through a court process, but are public roads because the public has used them for more than five years.

LAFCO staff has requested that the Special Districts Department provide the Court documents perfecting the prescriptive right for file purpose. As of the date of this report, that information has

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not been received. She says that it raises concerns over the improvements that are made by the County and whether or not the County is comfortable with improving the roads.

Ms. McDonald reviews the map of the Lake Arrowhead Community on the overhead and notes that the area in CSA 70 R-13 identified as Lake Arrowhead North Shore was established by the Board of Supervisors in 1984 to maintain 1.39 miles of paved roads for road maintenance and snow removal. The area shows that the western portion of the Zone does not have dedicated roads but are defined as prescriptive public roads in order to provide service. LAFCO staff has requested that the Special Districts Department provide the Court documents perfecting the prescriptive right for file purposes. As of the date of this report, that information has not been received. Services provided to this Zone are funded by a per parcel service established at \$100 per parcel on 88 parcels. Of concern to LAFCO staff is that the Zone's expenditures have exceeded revenues for the last four years; expenses have increased while service charges appear to have remained static.

Ms. McDonald notes that the area in CSA 70 R-46 on the overhead is identified as South Fairway Drive and was established by vote on August 2010 to maintain approximately 0.34 miles of road and provide snow removal in the unincorporated Lake Arrowhead area. A map of CSA 70 R-46, included as part of Attachment #5 to the staff report, identifies that the Zone is composed of three separate areas containing 2 parcels; 11 parcels; and 5 parcels between Fairway and Clubhouse Drive respectively. The services to be provided by the Zone are identified in the budget documents for FY 2012-13 as maintenance of several large culverts, headwall installations and maintenance, landslide restoration, snow removal and road grading services for a prescriptive right roadway at the back of the parcels between Fairway Drive and Thunderbird Drive. LAFCO staff has requested that the Special Districts Department provide the Court documents perfecting the prescriptive right for file purposes. As of the date of this report, that information has not been received. For clarity, a headwall is defined as a masonry or concrete retaining wall at the outlet of a drain; therefore, LAFCO staff would question the County's liability for the installation of these facilities on a prescriptive roadway. The service is funded through a special tax, assessed for FY 2012-13 at \$333.13 per parcel.

Ms. McDonald reviews examples of shared services by contract between special districts department and public works department for snow removal. When needed, equipment owned in the name of CSA 70 and CSA 18 is used for road maintenance or snow removal in other service areas. She states that currently, County Special Districts and the Department of Public Works are negotiating a new cooperative agreement to address all county service areas and zones that provide road service throughout the unincorporated County area. The draft agreement reviewed by LAFCO staff includes services reviewed in this report, road maintenance, snow removal, culvert repair, and others, but also includes items such as brush removal, trail maintenance etc. The draft identified a not to exceed contractual amount of \$300,000 to either side of the service provision. It is the opinion of LAFCO staff that its recommendation of two county service areas in the mountains would assist the cooperative arrangement currently under discussion and anticipated to be brought before the Board of Supervisors in the near future.

Ms. McDonald reviews the maps of County Maintained Roads currently snow plowed by Special Districts through contract on the overhead.

Ms. McDonald states that at the December 2010 hearing the Commission approved staff's recommendation to expand a single County Service Area sphere of influence to address the road maintenance and snow removal for the communities of Crest Forest and Lake Arrowhead, which was County Service Area (CSA) 68. The specific action was 1) That the Commission signal its intent to expand the sphere of influence for CSA 68 to encompass the entirety of the Mountain

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region (Communities of Crest Forest, Lake Arrowhead, Hilltop (Running Springs/Arrowbear Park/Green Valley Lake, and Bear Valley), as defined by the Commission; 2) Signal its intent to assign a zero sphere of influence for CSA 59; and, 3) Signal its intent to assign a zero sphere of influence for CSA 69. At the March 2011 hearing the Commission continued its discussion and proposed to expand the CSA 68 sphere of influence to address the Hilltop community as defined. During the discussion of the Bear Valley community no specific action related to expansion of the CSA 68 sphere of influence was discussed due to the location of the CSA 70 Zones only within the eastern area of the community within the existing Big Bear City CSD boundary and wholly within an existing County Service Area (CSA 53) with road powers. The Commission directed that a final determination be made for the Mountain region as a whole.

She states that it is staff's opinion that the area generally known as "Rim of the World" should be one County Service Area. Therefore, staff is amending its recommendation to make the Big Bear Valley a separate County Service Area to include road service and snow removal under CSA 53.

Ms. McDonald states that after evaluating the additional information gathered over the past two years, the answers to questions provided, and the completion of the other service reviews for the community, staff believes that the Commission has two options for the sphere of influence updates based upon the service reviews. Option 1 would be to continue with the position that a future consolidation of service providers should be undertaken and that the establishment of a sphere of influence as a planning tool that could provide for such future change of organization is appropriate.

She says that staff is modifying its previous position of a single CSA for the entirety of the Mountain Region based upon the location of service provision in the Bear Valley community and the existence of CSA 53 with road powers encompassing the entirety of the Bear Valley community. It is the staff position that the additional information received over the past two years supports the determination that this service should be provided through a mechanism of two County Service Areas: Territory to be identified as Rim of the World - CSA 68 for the defined communities of Crest Forest, Lake Arrowhead and Hilltop (Running Springs/Arrowbear/Green Valley Lake). This would necessitate actions to a) for LAFCO 3121 - expand the sphere of influence for CSA 68; b) for LAFCO 3119 - designate a zero sphere of influence for CSA 59; and c) for LAFCO 3122 - designate a zero sphere of influence for CSA 69. Ms. McDonald says that for the Bear Valley Community no change is necessary for CSA 53 as its sphere of influence already addresses the unincorporated Bear Valley community.

Ms. McDonald states that a Sphere of Influence is a planning tool to look at the overall direction of these entities, that no jurisdictional change will take place, and no transfer of revenues will take place. It will require a further action to change these efforts in the future.

Ms. McDonald states that the Special Districts staff has indicated that from a philosophical position the LAFCO staff recommendation makes sense and if they were to create the system in today's world that would probably be the choice. She says that the Department has stated that it did not support the staff's recommended option at this time on the basis of: (1) the cost for any future change of organization and the elections necessary to equalize the funding for service; (2) that the use of CSA 70 can provide for the standards for formation of future entities advocated by LAFCO staff; and (3) there are no savings or economies of scale to be achieved from the items identified such as a single audit as originally espoused by LAFCO staff. She says that with Option 2, should the Commission choose to retain the status quo as requested by the Special Districts Department on behalf of the County, the Commission would need to determine that the spheres of influence for CSA 59, CSA 68 and CSA 69 would be coterminous with existing boundaries.

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Ms. McDonald states that at each Commissioner's place she has placed a copy of a letter received on April 16, 2013 from Jeff Rigney, Director of the Special Districts Department, that supports both options as presented in the staff report with the following conditions for option 1; the reorganization is supported by the property owners/voters of the effected county service areas and zones, the reorganization cost to the county service areas and zones is kept to an absolute minimum, equalization of charges is not part of this recommendation and that after the reorganization, all funding sources will remain the same, (no sharing of property taxes), and standardization of service is not part of this recommendation. County service areas and zones formed to provide services unique to the circumstances and desires of individual neighborhoods and communities.

Ms. McDonald states the support of the property owners/voters of the service areas and zones is a key element and that no change of organization affecting the road maintenance could move forward without the lack of opposition from these entities. She says that the condition for the cost to the county service areas and zones be kept to a minimum, as with everything that the Commission has advocated for future change of organization, staff has worked to reduce costs and fees. She says that equalization of charges is not part of the recommendation and that there would be no way to equalize the charges based on the diversity of the area and that with regards to the standardization of service, staff would like to have a standardization of service in the future, however, existing service requirements would keep that from occurring.

Ms. McDonald says that staff appreciates the support from County Special Districts in reviewing the staff report; however, LAFCO staff still recommends option 1. She says that in conclusion so long as the county land use services and planning allows for development within the mountains with roads that cannot be accepted into the maintained system, there will be the need for a service system to provide for maintenance and snow removal and staff's recommendation will simplify that process.

Ms. McDonald reviews staff's recommendations that the Commission take the option to assign a single sphere as the planning tool to address road maintenance and snow removal within the Rim of the World area and Bear Valley Community separately. For environmental review adopt the Statutory Exemptions that have been recommended for each of the proposals, and direct the Executive Officer to file the Notices of Exemption within five (5) days of the action. She says for CSA 68, a) Indicate its intent to expand the sphere of CSA 68 to encompass the entirety of the Mountain region (Communities of Crest Forest, Lake Arrowhead, and Hilltop (Running Springs/ Arrowbear Park/Green Valley Lake), as defined by the Commission; b) Continue adoption of the resolution for the CSA 68 service review and sphere of influence update (LAFCO 3121) to the May 15, 2013 Commission hearing. For CSA 59, a) Indicate its intent to a designate a zero sphere, thereby signaling the Commission's desire for a future change of organization; b) Continue adoption of the resolution for the CSA 59 service review and sphere of influence update (LAFCO 3119) to the May 15, 2013 Commission hearing. For CSA 69, a) Indicate its intent to a designate a zero sphere, thereby signaling the Commission's desire for a future change of organization; b) Continue adoption of the resolution for the CSA 69 service review and sphere of influence update (LAFCO 3119) to the May 15, 2013 Commission hearing; and finally, approve the recommended updates to the services authorized for each CSA related to road maintenance, CSA 53, CSA 59, CSA 68 and CSA 69.

Ms. McDonald thanks the Special Districts Department for their participation in this review and for providing the documentation required to complete the staff review.

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Chairman Curatalo thanks Ms. McDonald for her presentation of a very extensive report and asks for comments from the Commission.

Commissioner Rutherford states that staff has done excellent work in the preparation and presentation of the road report.

Commissioner McCallon states that staff has worked hard in preparing the extensive staff report and that the Commission appreciates staff and special districts for their endeavors in making the report comprehensive.

Commissioner Bagley states that the road staff report is one of the most complex items that he has reviewed. He says that he had no idea that there were so many districts providing service on such a limited scale, it is an astronomical accounting problem and that he is concerned with the issue of deficit spending and assumes that the monies come from the county's general fund and is back filled.

Ms. McDonald states that most of them have fund balances, however, the contingencies are gone and that the districts are projecting out so that the next year or the year after they will have no funds to maintain roads and that is part of staff's effort in reviewing this. With regards to service charges there is a Prop. 218 process where they can increase their revenue and as she understand the districts are putting together a comprehensive review to look at this for the future. She says that the question needs to be asked and answered as to whether the voters of the districts are willing to increase the service charge to perform the service and if not, then the dissolution of these districts needs to be addressed.

Commissioner Bagley states that he is confused on the contingency line item on the budgets – it zeros out the fund balance, to which Ms. McDonald replies that it is intended that way. Commissioner Bagley ask what the contingency funds are, reserves? Ms. McDonald states that in the budget process, the contingency addresses the fund balance. The fund balance is always carried forward in the process, so in order to provide for a balanced budget, the contingency line item shows the fund balance. However, in many of the budgets the fund has dwindled down to a small amount and continues to dwindle from the actuals to the projected.

Commissioner Bagley states that there seems to be a larger deficit to the districts on the years that had more snow falls, whereby requiring more snow removal. However, in those years not all the districts show a deficit in the budget, so it seems to be a complex question as to what happened. He asks specifically about CSA 68 which shows a line item of \$7000 in state or federal funds and shows a \$6500 deficit that was back filled. He asks if it was accomplished via a state grant. Ms. McDonald states that Special Districts is in attendance and can answer Commissioner Bagley's question directly, however, she says that it was an outside resource that performed a service. She says that this is one of the issues that staff has referred to and is also a problem in R-5 where the budget looks healthy, but in fact it is a reflection of an influx of monies due to the closing of an assessment district.

Commissioner Bagley states that his concern is these districts are not viable on a long term without an influx of outside monies. Ms. McDonald states that staff is also concerned with these issues and looks at the fiscal indicators by reviewing the prior 5 years of financial data and tracking a pattern in an effort to plan for the future.

Commissioner Bagley asked about the prescriptive rights with regards to roads which he states to be a vague legal concept. He states that it is a huge problem and it is county wide. The county has many unincorporated communities and even when the communities do incorporate the vast

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number of roads in rural areas there are never dedicated road improvement completed. He says that there needs to be an allocation of resources to maintain these roads.

Ms. McDonald states that perfection of prescriptive easements is a process and you get some idea of where they are so that they can be maintained and it is an issue that needs to be addressed going forward. She says now that the issue has been identified in a public report, staff can continue to review and address the issue of prescriptive roads and their liability and maintenance. She also states that perhaps the residents of these areas will also be aware and understand that there is a resource to help with the issue of road maintenance. Ms. McDonald states that while these zones and districts under the Special Districts Department is the most cost effective entity to provide road maintenance because they use local contractors and are on site and able to provide the service quickly in these small areas. Staff believes that providing this service in a shared concept would be most beneficial to the residents and the region overall.

Chairman Curatalo states that good, safe roads are essential to communities and are critical to public safety in any community and that in the mountains good roads are vital to public safety.

Chairman Curatalo opens the public hearing.

Pam Vandervoort, Regional Manager, Special Districts, states that since Prop. 218 passed the Board of Supervisors can no longer approve service charges or assessments fees for improvements. She states that the infrastructure for these roads is starting to deteriorate. The improvements are paid for by the property owners, so in order to increase fees or generate revenue the property owners must agree by a 2/3 vote on these increases. She says that the \$75,000 reflected in the staff report was FEMA funds. As CSAs, they have the ability to apply for funds when natural disasters occur in the area.

Commissioner McCallon asks Ms. Vandervoort to address the issue of the "Zone-within-a-zone" as mentioned by Ms. McDonald in her presentation and in the staff report.

Ms. Vandervoort states that Special Districts does not have a Zone within a Zone. She states that it is an old tract that has two roads that the residents utilized to travel onto other roads; these roads were used by developers for a new tract which was not part of Zone R-23. Residents in the area complained that construction workers were using the old roads and not contributing to maintain them. She says that in order to collect fees for improvements the Special Districts Department has two ways of charging the residents either by a special tax approved by registered voters or a service charge. Special Districts Department worked with the prior Supervisor for the area and a special tax was passed by the registered voters. Ms. Vandervoort indicated no issue was raised during the process. Ms. McDonald states that a special tax must have a defined area and a service charge must also have a defined area and that it is one zone divided by an area that was annexed. She says that although she understands the premise of how it happened, you cannot divide a zone for a special tax without creating a separate zone. Ms. Vandervoort responds that County Counsel will answer the question. Ms. McDonald states that she will bring the answer back to the Commission once the issue has been clarified.

Commissioner Rutherford asks if the Lytle Creek roads are part of this discussion, to which Ms. McDonald responds that the Lytle Creek area was previously discussed with the valley service reviews.

Commissioner McCallon moves approval of option 1, second by Commissioner Rutherford. Chairman Curatalo calls for opposition to the motion. There being no opposition, the motion passes unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Rutherford, Smith, Williams. Noes: None.

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

PRELIMINARY BUDGET REVIEW FOR FISCAL YEAR 2013-14

PROPOSED SCHEDULE OF FEES AND CHARGES; PROPOSED BUDGET FOR FISCAL YEAR 2013-14; AMENDMENTS TO SBLAFCO BENEFIT PLAN RELATED TO STATUTORY RETIREMENT CHANGES – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing for the preliminary review of the Proposed Schedule of Fees, Deposits and Charge for Fiscal Year 2013-14. Notice of the 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.

Executive Officer Kathleen Rollings-McDonald presents the staff report for the review of the Proposed Budget for Fiscal Year 2013-14, 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 this year there are some positive notes, construction in the area seems to be improving, and the County was on the front page stating that the area is a good place for logistics in the southern California region. However, the activity at LAFCO remains low. She reviews the proposal chart on the overhead noting that to date LAFCO has received 2 proposals, 6 service contracts, and completed 8 service reviews. She state there has been some interest expressed regarding potential proposals so staff is optimistic for the future.

Ms. McDonald review the salaries and benefits for FY 12-13 and states that the staffing levels include four full-time positions, a contract for the Executive Officer and a LAFCO secretary position provided by contract with a temp agency. The Commission continued to outsource much of its geographic technology needs with the County's geographic Information Management System, its environmental processing though is contract with Tom Dodson and Associates, legal services though contract with Clark Alsop, and the maintenance of computer systems with the County's ISD.

Ms. McDonald reviews the accomplishments of the Commission for the year. She says that by June 30, 2013 all of the first round service reviews and sphere of influence updates will be completed. Outgrowth from these reviews include incremental steps toward consolidation of fire services for the City of Big Bear Lake and the Big Bear City communities, including sharing a fire chief position, looking toward a joint power authority or agreement for functional consolidation and the future potential for reorganization of the fire services through LAFCO. Staff is also looking to address the conditions that have been imposed on Rim of the World and the Twentynine Palms Cemetery District. She says that the scanning project for all the backlogged files has been completed with an ongoing process put in place to digitally archive proposals as they are processed. She says that by June 30, 2013 the new San Bernardino LAFCO website will have been launched and the update and general maintenance of the LAFCO website will be handled in-house.

Ms. McDonald review the salaries and benefits for FY 13-14 and states that the Salaries and Benefits categories for Fiscal Year 2013-14 include the funding for five positions, which includes the filling of the LAFCO secretary position as a full time employee instead of by contract with a temporary service, payment of step increases, increase in retirement cost issues and the retention of the contract Executive Officer position.

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Ms. McDonald states that additional workload responsibilities for the upcoming Fiscal Year include the Executive Officer's participation as a member of the CALAFCO Legislative Committee, as the designated SCAG representative for the CCL on the Programs and Planning Technical Advisory Committee and on conference and workshop planning committees. She says that in addition, the Assistant Executive Officer, Samuel Martinez, is currently the Deputy Executive Officer for the Southern Region on CALAFCO, the Program Chair for the 2013 Annual Conference in Squaw Creek for the CALAFCO 50th Anniversary, and the Program Chair for the 2014 Annual Conference to be held in Ontario in September 2014. She also states that the upcoming year will also include the labor intensive discussion with the stakeholder groups regarding the service reviews for the Valley region which will be conducted in a service-by-service review in conjunction with the County's Vision Project.

Ms. McDonald reviews the salaries and benefits for FY 14-15 and states that as is the Commission's practice, a forecast for the following fiscal year is presented for planning purposes. She says the one question to be reviewed for FY 14-15 is the determination by the Commission as to whether it wishes to continue with the contract Executive Officer or pursue recruitment for that position as originally anticipated in the budget process for Fiscal Year 2012-13. She states that the difference in salary and benefits between the two options is approximately \$148,855. She says that the full cost of the executive officer position is shown on the overhead display at the tier one retirement level, which is the highest level.

Ms. McDonald reviews the services and supplies for FY 12-13 and states that for the current year the Commission will close the year in a position of about \$51,000 less than what was budgeted. This is due to the cancellation of several hearings in the Fiscal year that did not require both legal and environmental services. The estimated year-end Services and Supplies categories expenditures are \$316,251. This amount includes payments for the temporary agency contract for the LAFCO secretary, website and logo development, and the payments for the scanning project. No budget amendments are proposed at this time

Ms. McDonald reviews the services and supplies for FY 13-14 and states that staff is recommending a total Services and Supplies budget of \$319,684, a reduction of \$48,210 from the Fiscal Year 2012-13 budgeted amount. She says that in reference to the expense categories within the overall Services and Supplies section, staff is proposing the update of the Commission's website mapping page (\$14,000), and is asking to pursue the negotiations with ESRI for a more interactive mapping product for the web-site. She says a large portion of the mapping work for the website will be done in house and is of benefit to LAFCO to be able to control the content and the updates in-house. The product is similar to that which the county currently uses for its Public Works Department. Ms. McDonald states that the FY 13-14 services and supplies budget includes the recruitment for the LAFCO Secretary position in-house, and a return to the use of the County's Google Earth program since it has been updated (\$3,500). On balance the budget appropriations provide for maintenance of current levels of support for on-going activities.

Commissioner McCallon asks if the \$14,000 for ESRI is only the software or if it includes the work for the mapping.

Ms. McDonald states that the mapping work is already done as LAFCO digitizes all their mapping for annexations and spheres of influence and has maintained the digitized maps in the county system. The monies will pay for the transfer of the digital maps from the county system into the ESRI topographic system and will allow for level reviews and will allow the information to be interactive and be placed on the LAFCO web site. It is a software and staff support;

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approximately \$6,000 is for the ESRI Arc software.

Ms. McDonald reviews the revenues for FY 12-13 and states that staff has seen no further decline in proposal activity. She reviews the chart that identifies the proposal activity for the current fiscal year. Staff estimates that year-end totals for all revenues will be at 105% of budgeted appropriation. The total revenue (fees and deposits) received from the two applications submitted during the year is \$21,200 and for the six service contracts is \$15,575. She says that actual proposal activity reached the projected activity for the current year.

Ms. McDonald reviews the revenues for FY 13-14 and states that in order to remain conservative in revenue projections, staff anticipates the submission of three proposals, 4 service contracts and 3 protest hearing deposits next year at the basic fee level for a fee revenue of \$25, 800. She says that no projection has been made in the Service Review Deposits category since the next round of service reviews will be conducted in a service based as needed basis and at this time it is not possible to know how many will be required.

Ms. McDonald reviews the revenues for FY 14-15 and states that the revenue forecasts anticipates a slight increase in proposal activity for an increase in Fees and Deposits of slightly less than \$13,000 over FY 13-14.

Ms. McDonald reviews the reserves and contingencies and states that there is a general reserve for litigation in the amount of \$250,000, a Compensated Absence Reserve in the amount of \$66,620 and a COWCAP Reserve in the amount of \$46,780. In addition, staff is recommending a contingency of \$63,813 which represents about 6.4% of expenditures, well within the suggested range of between 5-10% of expenditures. She says that should the use of these dollars be required, it will take an action by the Commission to transfer monies into the appropriate expenditures series.

Ms. McDonald reviews the amendments to San Bernardino LAFCO's human resources benefit plan related to statutory retirement changes put in place effective January 1, 2013. She states that SBCERA has drafted preliminary interpretations which may be revised as the law is implemented. Tier 1 (existing members) are all members with SBCERA membership dates prior to January 1, 2013. All current LAFCO employees are Tier 1 members with the exception of the Executive Officer who is a contract employee. Tier 2 (new members) would be members who are new to SBCERA on or after January 1, 2013 or had more than a six month break in service from a prior public retirement system and were ineligible for or did not establish reciprocity. She reviews the chart shown on page 10 of the staff report, noting that the determination of reciprocity is between the employee and SBCERA, not LAFCO. She states that the establishment of reciprocity can take 6 to 8 months to establish and that should reciprocity be established, SBCERA will determine what, if any, retirement contributions are required and make necessary adjustments and bill the Commission for any increased contribution required. She says that this has the potential to severely affect the Commission's recruitment process as there is a significant financial burden to LAFCO for Tier 1 future employees compared to Tier 2. A further caveat in this system is whether or not there is a legal mechanism to question a potential applicant regarding this situation during interview process since the responsibility is upon the employee with SBCERA. However, a new hire that would come from another SBCERA member agency would not require reciprocity because that employee is already in the SBCERA system and would be considered a Tier 1 employee. She states that staff is waiting for more information from SBCERA.

Ms. McDonald states that LAFCO mirrors the County Exempt Compensation Plan and the County has not yet adopted any changes to its Exempt Compensation Plan, other than establishing separate contribution rates for Tier 1 and Tier 2 members on December 18, 2012.

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Ms. McDonald states that as the Commission moves forward, the issue needs to be addressed as new employees are slated to be hired. LAFCO staff is recommending that the Commission adopt the appropriate resolution that will establish a two-tier system, mirror the benefit compensation plan, separate the Tier 1 and Tier 2 members and direct the Executive Officer to forward the resolution to SBCERA and the County Auditor.

Ms. McDonald reviews the language to be amended in Section 8 of the Benefit Plan as shown on page 11 of the staff report. She says that for the LAFCO secretary, staff has budgeted for a Tier 1 employee, to ensure that there are sufficient monies to accommodate that position.

Ms. McDonald concludes her presentation and states that she has review the information contained in the report which outlines and discusses the budget considerations before the Commission which provides for the following determinations required by Government Code Section 56381. She says that staff has identified the apportionment costs to be applied to the three levels that fund San Bernardino LAFCO; the County, the cities and the independent special districts, each responsible for their proportionate share, approximately \$288,274. Ms. McDonald states that the net cost of the apportionment is less than in FY12-13. She states that according to Government Code Section 56381 the apportionment for the Commission shall be at the least the amount provided in the budget adopted for the previous fiscal year unless the commission finds that reduced costs will allow the commission to provide the programs that the CKH requires. She says that it is the staff position that the Commission can provide its mandated programs with a reduced budget apportionment for FY 13-14

Ms. McDonald reviews staff recommendations and asks that the Commission take the following actions; 1) determine that there are no changes to the Schedule of Fees, Charges and Deposits; 2) adopt the Proposed Budget for Fiscal Year 2013-14, presented by staff, by taking the following actions; a) approve the recruitment for the LAFCO Secretary; b) approve the upgrade to the Commission's website mapping page through contract with ESRI and the GIMS division of the County's Information Services Department for an estimated cost of \$14,000; c) approve the extension of the current Executive Officer's contract until September 30, 2015; d) approve the amendment to Section 8 of the Benefit Plan portion of the Policy and Procedure Manual addressing statutory changes in retirement contribution rates and tiers and adopt LAFCO Resolution No. 3173 reflecting that change; e) determine that the reduction in apportionment amount will allow the Commission to fulfill the programs and purposes required by the Cortese-Knox-Hertzberg Local Government Reorganization Act; and 3) schedule a public hearing for May 15, 2013 for the formal adoption of the Final Budget for Fiscal Year 2013-14, contract extension for Executive Officer and related items, and direct staff to forward the adopted Proposed Budget, as modified at this hearing, to all the independent special districts, cities, and the County for their comment pursuant to Government Code Section 56381

Chairman Curatalo asks the Commission for comments.

Commissioner Smiths asks if Baker CSD and the City of San Bernardino would create a problem with payment as they did in the previous fiscal year.

Ms. McDonald states that the apportionment from the Baker CSD is received from a reduction in the property tax revenue through the Auditor-Controller's office, so that portion does get paid. She says that the issue with the City of San Bernardino was resolved through their bankruptcy attorney's office and payment was received in February. Staff will undertake the same notification process as in years past and will hopefully receive payment within the given time-frame. She says that there is always the possibility that others will look at issues of financial distress, but staff believes that they will receive all of the payments due to the Commission. She states that one of the benefits to the reduction in costs is that it reduces costs for agencies that are responsible for their apportionment, but are small and have a limited budget.

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Commissioner Bagley asks if staff could provide historical review of proposals and service contracts going back 20 years. He states that he would like to see for budgeting purposes and for planning for the future, the historical information related to salaries, proposal activities.

Ms. McDonald states that she is not sure that staff can go back 20 years, but staff can go back 10 years and provide the data requested.

Commissioner Bagley states that 10 years of information would be useful to see trends and activities and inflationary costs. He says that he is still concerned with SBCERA and the contractual obligations the Commission has and the issue of unfunded liability. As an entity responsible for the review of financial solvency issues of other agencies, it would behoove LAFCO to remain aware of the information for their own finances and unfunded liability. He states that the Commission needs to appropriately compensate employees, but at the same time needs to be aware of unfunded pension liabilities.

Ms. McDonald states that over the last 5 years the Commission has made great strides in addressing the issue of unfunded liability. The Commission currently has a reserve fund for compensated absences where many entities do not address the issue of compensated absences and view it as future expenditure. LAFCO staff views the obligation of compensated absences as an item that must be ready in the event that the legislature decides to dissolve LAFCOs. This is an obligation that would need to be paid.

Ms. McDonald states that with regards to the comments made by SBCERA at the last hearing concerning the payment holiday, staff contacted SBCERA directly. After reviewing and questioning SBCERA following the hearing, it was determined that LAFCO had not had a payment holiday and has always paid its full obligations; while the County was provided a holiday or reduced payments for four years from 1999-2000 to 2003-04. She says that staff will also be working with SBCERA staff to determine LAFCO's unfunded liability with SBCERA.

Commissioner Bagley states that he appreciates staff taking a detailed look at all these issues and says that reciprocity is also an issue. He says that it makes the hiring of new employees difficult and that the mandate of reciprocity upon the Commission concerns him.

Ms. McDonald states that reciprocity is of great concern and she has requested the advice of legal counsel on the whether or not the question can be asked of a potential employee. If the process of reciprocity is one that is negotiated between SBCERA and the employee and LAFCO as the employer has to accept that action afterwards, the Commission should have the right ask and know upfront for the purpose of hiring and negotiating a salary for a position such as the Executive Officer. Other positions have pre-determined ranges and progressions and the salaries and costs associated with that can be evaluated and determined, however, in the recruitment of a higher-level employee, the salary is negotiated and those negotiations must take into account at what level reciprocity will be paid, unfunded liability costs, where the salary caps are, and many other things. She says that staff is looking to provide the information to the Commission; however the information gathering process does require work and time.

Commissioner Bagley states the issues does cause him concern and that there has been a huge escalation in civil service salaries in municipal agencies and special districts and he wants people to get paid what they deserve but he also wants to keep them realistic when evaluating unfunded pension liabilities.

Ms. McDonald states that unfunded retirement liabilities is an issue that needs to be address and that in looking at what happened in other cities such as Bell, where the city was responsible for paying for

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retiree benefits as direct payments. She says that in the 2-tier method, the state legislature has placed a cap on the Tier 2 employees and it is Tier 1 employee retirement benefit liability that is of concern. Staff will continue to review and update the Commission as information is gathered.

Commissioner McCallon asks whether the budget that is proposed has any coverage for unfunded liability.

Ms. McDonald states that there is a fund for reserves for compensated absence but at this time it is not known what the unfunded liability is and in what time frame it must be paid out. Once the unfunded liability is determined, changes can be made to incorporate that into the budget.

Commissioner McCallon states that we do not know if the Commission's reserves are enough to cover the unfunded liability.

Ms. McDonald states that if the Commission were to look at how other agencies have calculated the unfunded liability for their employees, and applied to calculation to the current 4 LAFCO employees, the approximate unfunded liability would be \$3 million. The details of how it needs to be paid, over what time period is still unknown as is the question of active and inactive employees and many other questions.

Commissioner Bagley states that he is concerned over the unknown liabilities and that the possibility of LAFCO becoming insolvent is a real issue.

Chairman Curatalo opens the public hearing and asks if there are members of the public who wish to address the Commission. There are none.

Chairman Curatalo thanks staff for their efforts in crafting a sensible budget in these tough economic times. Commissioner Bagley thanks staff for their hard work and for the reductions and the economic changes.

Commissioner Williams moves approval of the budget, 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, Curatalo, McCallon, Rutherford, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Commissioner Smith voting in her stead), Ramos (Commissioner Rutherford voting in his stead).

DISCUSSION ITEMS:

DISCUSSION OF COMPLETION OF AB 54 REQUIRED SUBMISSION OF SERVICE AREA MAPS BY MUTUAL WATER COMPANIES

LAFCO considers discussion of the Completion of AB 54 – Required submission of Service Area maps by Mutual Water Companies.

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. He states that Assembly Bill 54 (AB 54) was introduced by Assemblyman Jose Solorio, who was a former city councilman from Santa Ana, CA. The bill passed the Legislature on September 8, 2011, was signed into law on October 7, 2011, and took effect on January 1, 2012. The chaptered version of AB 54 imposes standards on a MWC such as the requirement that all construction on its system shall be designed and constructed to comply with the applicable California Waterworks standards and also includes a number of provisions related to LAFCO.

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Mr. Martinez says that there is a provision related to the annexation of territory that is served by a mutual water company into a city or special district, giving LAFCO the power to approve or disapprove the annexation. He says that in connection with the preparation of a municipal service review or sphere of influence update the mutual water company is to provide information to LAFCO related to non-confidential information of the operation of its system. The bill also required each mutual water company that operates as a public water system to submit to LAFCO a map depicting the approximate boundaries of the area it serves by the December 31, 2012.

He states that LAFCO staff compiled a list of the mutual water companies in San Bernardino County and mailed a letter dated July 19, 2012 requesting that the companies provide maps of their service area to LAFCO with a follow-up reminder letter dated December 12, 2012.

Mr. Martinez states that the overall result of the request was successful with over 90% of the known MWCs responding. There were a few companies listed that responded but did not provide a map; rather, replied by stating either they were not a MWC or were not subject to the requirements of AB 54. A few others simply did not respond. However, LAFCO staff was able to identify where the respective service areas are for these MWCs based on other information sources available.

Mr. Martinez reviews the vicinity maps for the valley, mountain, and north desert regions on the overhead and states that maps for each individual mutual water district have been provided as attachment #3 to the staff report.

Mr. Martinez states that for the valley region, there is the San Antonio Water Company, who responded that they were not subject to AB 54 due to the fact that they are a whole sale water provider. However, they do have a domestic water service area which serves the San Antonio Heights area of the City of Upland's unincorporated sphere area, so they have been added to the list. He points out that the San Antonio Canyon Mutual Service Company in the Mt. Baldy area is also within that region. He states that the Marygold Mutual Water Company serves portions of the City of Fontana and the City of Rialto's unincorporated sphere and is surrounded by the Fontana Water Company. The Terrace Water Company is in one of the unincorporated island within the City of Colton sphere and also serves a portion of the City of Colton. He says that the Riverside Highland Water Company serves both San Bernardino and Riverside Counties. Baseline Gardens Mutual Water Company is in an unincorporated island area of the City of San Bernardino and is currently in the process of being taken over by the East Valley Water District which serves the City of Highland and portions of the City of San Bernardino.

Mr. Martinez says that in northern San Bernardino area is the Devore Mutual Water Company and Muscoy Mutual Water Company and in the eastern part of the valley is Western Heights Water Company which serves the Cities of Redlands and Yucaipa and Rocky Comfort Mutual Water Company which serves the unincorporated Mentone community. He says that the South Mesa Water Company serves both San Bernardino and Riverside counties but is monitored by the Department of Public Health in Riverside County. Oak Glen Domestic Water is also in the eastern valley area within the Oak Glen community.

Ms. McDonald states that the Commission should be aware that the area on the overhead, the east part of the valley are significant orange groves and cultural areas that have co-op water companies for irrigation water none of which are reflected in the map. The requirement was for mutual water companies that provide domestic water.

Mr. Martinez reviews the vicinity maps for the easterly mountain region along Mill Creek Canyon and Angelus Oaks on the overhead and states that in this area there is Mill Creek Mutual Water Company,

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Forest Park Mutual Water Company, Fallsvale Service Company, and Glen Martin Mutual Water Company. He states that there are a number of private water companies that serve the area but they are not subject to AB 54.

Mr. Martinez states that in the Crest Forest & Lake Arrowhead Communities there are several Mutual Water Companies; Cedarpines Park Mutual Water Company, Valley View Mutual Water Company, Camp Waterman Mutual Water Company, Strawberry Lodge Mutual Water Company, Alpine Water Users Association, Dogwood Inc. Arrowhead Villas M.S.C., and the Sky Forrest Mutual Water Company. He says that in the Hilltop and Bear Valley Communities there is the Green Valley Mutual Water Company, the North Shore Mutual Water Company, and Treasure Island Mutual Water System.

Mr. Martinez review the vicinity maps for the north desert region on the overhead and state that in the Phelan-Piñon Hills Community there is the Sheep Creek Mutual Water Company that, based on their bylaws, has a service area that includes 36 square miles but serves only about 12 square miles. Mr. Martinez notes that in the Adelanto-El Mirage Communities there is the Chamisal Mutual Water Company. He says that in the Apple Valley Community there are three mutual water companies, Rancheritos Mutual Water Company, Navajo Mutual Water Company, and the Apple Valley View Mutual Water Company.

Mr. Martinez states that in the Lucerne Valley Community the maps show the following Mutual Water Companies; West End Mutual Water Company, Desert Dawn Mutual Water Company, Lucerne Valley Mutual Water Company, Lucerne Vista Mutual Water Company, Desert Springs Mutual Water Company, Bar H Mutual Water Company, Jubilee Mutual Water Company, and Gordon Acres WC, Inc.

Mr. Martinez states that in the Barstow Community there is the Hi-Desert Mutual Water Company, and the Bar Len Mutual Water Company, which serves only the area outlined, even though their bylaws allow them to service a larger area as noted on the overhead.

Mr. Martinez states that this report notes the culmination of the requirements of AB 54 related to the submission of service area maps to LAFCO by the MWCs that operate a public water system. He says that in the future, if the list of MWCs subject to AB 54 needs to be expanded to include other entities, LAFCO staff will bring it back to the Commission for review. He says that in addition, it should be noted that San Bernardino LAFCO already includes information related to the private and mutual water companies in their service reviews and that in moving forward, as staff begins the second round of service reviews, they will continue to request additional information from the mutual water companies (and private water companies) for the service reviews, which are now clearly identified in Government Code Section 56430(c) and 56430(d).

Mr. Martinez states that staff is recommending that the Commission receive and file the information related to the service area maps of mutual water companies in San Bernardino County, in compliance with Assembly Bill 54.

Chairman Curatalo asks for comments from the Commission.

Commissioner Bagley states that staff has done a good job in reporting the information regarding the mutual water companies and that the information will be useful in future service reviews.

Ms. McDonald states that as the Commission moves forward and reviews services in the public and private operations, they should keep in mind that the mutual water companies are governed by the Department of Corporations and also that staff has provided as an attachment to the staff report a listing of the mutual water companies that did not respond to the request to submit maps as required in AB 54 such as the Del Rosa Mutual Water Company and West Twin Creeks Water Company. She says that

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some of the Commissioners will recall the annexation of the Arrowhead Springs Hotel to the City of San Bernardino with regards to discussions with the Del Rosa Mutual Water Company and the West Twin Creek Water Company and their ability to possibly be important to future development. She says that in reference to the Fenner Valley Mutual Water Company, is associated with the Cadiz Project, that staff has meet with the proponents and their attorney noting that while the Fenner Valley Mutual Water Company is identified in a number of publications and documents related to that project, it has not filed with the Department of Corporations. They have filed with the Secretary of State to incorporate its name but has not filed as a mutual water company through the Department of Corporations. She says that she wanted the Commission to be aware of this information and that it can also be found in the attachments to the staff report.

Commissioner Smith asks if all the maps will be incorporated into the GIS system and be accessible to the public, to which Ms. McDonald responds in the affirmative.

Mr. Martinez states that LAFCO has also shared the information with Environmental Health Services as they did not have any of the maps.

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 unanimously with the following vote: Ayes: Bagley, Curatalo, McCallon, Rutherford, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Commissioner Smith voting in her stead), Ramos (Commissioner Rutherford voting in his stead).

NOTIFICATION OF NOMINATION PERIOD FOR SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY (SDRMA) BOARD OF DIRECTORS

LAFCO considers discussion of the Notification of Nomination Period for Special District Risk Management Authority (SDRMA) Board of Directors.

Project Manager Michael Tuerpe 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. He states that the Commission belongs to the Special Districts Risk Management Authority (SDRMA), the insurance Joint Powers Authority which provides the Commission's Workers Compensation and property/liability insurance coverage. He says that on January 28 staff received a letter outlining the process for the SDRMA elections, including the nomination process which is attached to the staff report.

Mr. Tuerpe states that the information is being provided to the Commission to determine if there is any interest among Commissioners to run for this office or if the Commission desires to nominate a member of management staff to run for office. He says that with regards to costs, the Directors are reimbursed by SDRMA for reasonable travel, lodging, and meals when attending board and committee meetings.

Mr. Tuerpe states that if the Commission does not wish to nominate a participant then staff is asking that the Commission note receipt and file the information.

Chairman Curatalo asks for comments regarding interest for this item. There is none.

Chairman Curatalo directs staff to file the information.

INFORMATION ITEMS:

PENDING LEGISLATION REPORT

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Ms. McDonald states that the pending legislation report was provided to the Commission electronically. She states that staff is providing background information on five bills.

AB 743 (Logue) – Ms. McDonald states that this legislation proposes to eliminate the sunset clause for the special island annexation procedures (Govt. Code Section 56375.3 -- areas 150 acres or less, totally or substantially surrounded, etc.) The intent of this legislation is to make island annexation procedures a permanent part of the law while establishing the effective date of the island creation as January 1, 2014. She states that the Commission has a strong history of advocating for the elimination of these islands and had policies to require that a city address their islands when proposing a development related annexation. However, all of that changed upon the passage of SB 89 and the removal of the motor vehicle in-lieu discretionary funding to provide service to these developed island areas. In August 2012 the Commission took a specific policy action to say that it would no longer condition its approval of a development-related annexation on that City addressing its islands because they were no longer sustainable, in the Commission and staff view, with the removal of this discretionary funding. She states that it is staff's opinion that the ability to enforce AB 743 in San Bernardino County is now limited; the 150 acre limitation does not address the islands in the County. CALAFCO has taken a position in support of this bill. She states that staff is recommending that the Commission take no position, or a neutral position, on AB 743.

AB 1427 (Assembly Local Government Committee) – Ms. McDonald states that this is the CALAFCO sponsored Omnibus Bill to provide for clean-up, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act. She says that the April 1, 2013 version of the bill identifies that it will correct some internal code citations; it will correct references to "resident voter" to "registered voter". She states that staff is recommending support for this legislation.

SB 56 (Roth/Emmerson) – Ms. McDonalds states that this legislation is attempting to restore the motor vehicle in-lieu funds for newly incorporated cities and those cities annexing inhabited territory removed by SB 89. This is to return a level of funding from an Educational Relief Augmentation Fund (ERAF) distribution that provides property tax to the schools. Its intent is to trade ERAF funds for the former vehicle funds. She says that an unintended consequence of Prop 30, motor vehicle in-lieu fees cannot be reapportioned after the implementation of that referendum. So the discussion is to use SB 56 through the ERAF which would then be back filled by the state but will only be for those actions that took place prior to 2011. She states that the bill does not correct this funding inequity for future incorporations or inhabited annexations. CALAFCO has taken a position in support of this bill. She states the staff is recommending support for this legislation.

SB 772 – (Emmerson) – Ms. McDonald states that this bill was introduced by Senator Emmerson at the request of the Eastern Municipal Water District to address issues related to the operations of private water companies which are managed by the California Public Utilities Commission (PUC). This bill addresses private water companies but its definition is for both private companies under PUC operation and mutual water companies under the Department of Corporations. The bill is proposing that LAFCOs create a sphere of influence for all of these companies, which means that LAFCOs would be required to conduct a service review that would include the review of their financial data. If the mutual water companies did not provided that needed data, LAFCOs could not complete the reviews that would be required under SB 772. She states that a sphere of influence is defined by law as to be provided by a local agency, a local agency under LAFCO law is a county, city or a special district; not a private corporation. Ms. McDonald states that in the staff opinion, the bill does not reflect any tangible benefit for the work performed; LAFCO cannot control expansion of any private or mutual water company. A private water company can propose expansion if it is within 2000 feet of its existing certificated service area or service line without even going to the PUC. She states that there would be no benefit of a sphere of influence.

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Ms. McDonalds states that the Commission also has the authority to designate zero spheres of influence and could designate zero spheres of influence for water companies that they did not believe should exist. She questions how the water companies would respond. She states most importantly there is no funding source for these service review efforts except through the mandatory apportionment process in which these private entities do not participate. Staff is opposed to the introduction of another drain on these limited resources.

Ms. McDonald states that staff believes in the value of sharing information and the better understanding of service delivery patterns, especially for retail water service. However, the methods identified in SB 772 are not practical and should be directed at the PUC, State Department of Health, and the Department of Corporations, all of whom have the responsibility for oversight for these private corporations and have the revenues to support their regulation of these entities. CALAFCO has taken a position in opposition to this legislation and staff recommends that the Commission also oppose.

Chairman Curatalo asks if staff has spoken with Senator Emmerson regarding this bill. Ms. McDonald states that Riverside LAFCO's Executive Officer, a member of the CALAFCO Board, and the CALAFCO Executive Director met with Senator Emmerson and he is now considering making this a two-year bill. Ms. McDonald notes from what was discussed, the Senator appears to be rather surprised at the back lash. She states, in the staff opinion, the Commission needs to be on record as opposing this bill.

AB 774 (Donnelly) – Ms. McDonald states that this legislation is sponsored by the County of San Bernardino to address service liability issues when considering the dissolution of a County Service Area or Zone of County Service Area that had been providing road maintenance services. As the service review for the Mountain Region Roads illuminated, there are concerns related to the County's liability when removing these services for lack of funding. AB 774 establishes a process to provide notification of the removal of service as well as notification that the County would not be liable for injury or loss after dissolution. She says the process includes the posting of signs along the roads for one year that they County will no longer be maintaining that road and will not be liable for accident or injury along that road and will allow them to dissolve the agency.

Ms. McDonald states that staff has worked with the county legislative team and with the Special Districts Department on the language for this bill to make sure that the process is accurately reflected. She says that staff is recommending that the Commission support this legislation.

SB 246 (Fuller) – Ms. McDonald states that this bill was introduced by Senator Fuller at the request of the Bighorn-Desert View Water Agency to address the language of the District's special act. As identified in the service review for this agency, its special act has not been thoroughly reviewed since the consolidation of the Desert View County Water District and Bighorn Mountains Water Agency. The bill, as presented, rewrites the legislation providing for uniform methods of operation, repeals the sections which address the completed consolidation, and make other statutory updates. Ms. Marina West, General Manager of Bighorn Desert View, has submitted a letter requesting that discussion of this bill be deferred to the May hearing so that she may be present to answer questions. She says staff is recommending that the Commission direct staff to return at the May hearing with a more detailed review of SB 246.

Ms. McDonald states that the CALAFCO Legislative Report identifies a number of bills directed at CEQA reform or the provision of a new funding stream for infrastructure development. She says that these bills are intended to do what the redevelopment agencies did but on a smaller scale within a specified district area. She says that staff is recommending that the Commission direct staff to watch these various efforts and apprise the Commission when moving forward.

Ms. McDonald states that staff is recommending that the Commission review the materials presented,

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take the positions of opposition or support as identified in the presentation and direct that position letters be drafted for the Chairman's signature reflecting those positions.

Chairman Curatalo asks for questions from the Commission. There are none.

Commissioner Rutherford moves approval of the pending legislative report, 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, Curatalo, McCallon, Rutherford, Smith, Williams. Noes: None. Abstain: None. Absent: Cox (Commissioner Smith voting in her stead), Ramos (Commissioner Rutherford voting in his stead).

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald reviews the Legislative Counsel Opinion letter that was received by LAFCO that relates to Gann Limit for the Health Care Districts. She says that during the service reviews for the healthcare districts, the discussion was had with regards to the appropriation requirements. Two of the districts stated that they were exempt from the appropriation requirements; one district stated that they were not exempt. She says that staff was directed to seek an attorney general opinion, but staff was unable to move forward with that due to the attorney general's schedule. She says that Santa Clara LAFCO had the same issue and Senator Gordon also tried to get an attorney general opinion and he was told it would take three years and it was recommended that he go to the legislative counsel. The Legislative Counsel has provided an opinion and staff will be forwarding the opinion to the healthcare districts so that they can be informed that they are a part of the appropriation limit. She says that all three of the healthcare districts in the County will need to have an appropriation limit and should apply one in the not too distant future.

Ms. McDonald states that staff has provided the Commission with a legal alert that was received from Best, Best and Krieger regarding the ruling that email and text messages on personal devices are subject to the Public Records Act. She says that if a Commissioner is doing any correspondence during public hearing related to items that come before the Commission, they should be aware that the correspondence is subject to the Public Records Act.

Ms. McDonald states that staff has provided to the Commission a copy of the California Planning and Development report, Legal Digest that refers to two LAFCO rulings revealing the importance of Commissions in the overall process.

Ms. McDonald states that due to the lack of activity the Hearing for the month of June has been cancelled and that the Commission will reconvene in July. She says that at the May hearing the Commission will hear a service review, service contract for the City of Fontana, and a request for exemption for the provisions of 56133 for the contract between San Bernardino County Fire Protection District and Crest Forest Fire Protection District.

COMMISSIONER COMMENTS

Commissioner McCallon asks that today's hearing be adjourned in honor of those who died in the Boston tragedy.

COMMENTS FROM THE PUBLIC

There are none.

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**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE
HEARING IS ADJOURNED AT 11:15 A.M. IN HONOR OF THOSE LOST IN THE BOSTON
MARATHON BOMBING TRAGEDY**

ATTEST:

REBECCA LOWERY
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JAMES CURATALO, Chairman