



**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF AUGUST 20, 2008**

- ITEM 2. Approval of Executive Officer's Expense Report
- ITEM 3. Ratify Payments as Reconciled for Month of July 2008 and Note Cash Receipts (*to be continued to September 17, 2008*)
- ITEM 4. Consideration of (1) Review of Negative Declaration Prepared by the County of San Bernardino for General Plan Amendment from RS (Single Residential) to CG (General Commercial) on 0.28 Acres, and Conditional Use Permit to Establish a Two-Story Office Building on 1.05 Acres, as CEQA Responsible Agency for LAFCO SC#335; and (2) LAFCO SC #335 - City of Colton Agreement for Sewer Service (APN 0274-182-46)

A Travel Claim and Visa Justification for the Executive Officer's expense report have been prepared and copies of each are on file in the LAFCO office and are made a part of the record by their reference here. SC#335 has been advertised as required by law through publication in *Colton Courier* and *The Sun*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice, and landowners and registered voters within and surrounding the SC#335 area, pursuant to State law and Commission policy.

Chairman Colven states a Request to Speak has been submitted and opens the public hearing, calling upon Chris Jones to speak. Ms. Jones states she is against this construction and that she is the only person in her neighborhood who received the notice. She asked how she would go about fighting this construction. Senior LAFCO Analyst Samuel Martinez explains the project has been approved by the County for construction, however that approval requires sewer service by the City of Colton, and that is why this proposal is before the Commission today. He states that in terms of LAFCO notice, the requirement is that registered voters and landowners within 700 feet of the property are noticed. Ms. Jones states she is the only person within two blocks who received the notice. Chairman Colven asks if this response is the only one received. Ms. McDonald states that if Ms. Jones' neighbors are registered voters or landowners they would have received notice; however, if the person is not the owner of the property or is not a registered voter he or she would not have been noticed. Ms. McDonald states Ms. Jones is welcome to review the list of parties to whom the notice was sent. Ms. McDonald explains that LAFCO's role is to address the issue of receipt of sewer service to be provided by the City of Colton outside its boundaries and that land use decisions made by the County are not the role of LAFCO.

Commissioner Hansberger states Ms. Jones is concerned about a land use action and future annexation. He explains that the land use action has already taken place through the County, which approved the project, and that the issue today is where the property owner obtains sewer service. He says that in order to get sewer service, the landowner would have to get it from the City of Colton. LAFCO is not annexing that property at this time. Commissioner Hansberger states that the concern is that people were not properly noticed. He invites Ms. Jones to look at the mailing list for this project. Ms. Jones states she was not noticed by the County for the land use. Commissioner Hansberger states she may review the mailing list which the County Land Use Services Department would have used noticing the proposed development project.

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Commissioner Pearson moves approval of the staff recommendations for the consent calendar, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson. Noes: None. Abstain: None. Absent: McCallon, Nuaimi.

**CONSIDERATION OF SPECIAL COUNSEL FOR LAFCO 3013 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR TOWN OF APPLE VALLEY – APPROVE STAFF RECOMMENDATION**

LAFCO considers retention of special counsel for LAFCO 3013 – Service Review and Sphere of Influence Update for Town of Apple Valley. Ms. McDonald states that LAFCO staff requests that the Town of Apple Valley Service Review and Sphere of Influence Update be continued to the September hearing and that a contract with Colantuono & Levin be authorized for provision of special counsel service. She states that Best Best & Krieger has been hired as the town counsel for the Town of Apple Valley, which caused an attorney conflict to arise. LAFCO staff and legal counsel reviewed the item and felt a waiver was appropriate; however, the Town did not feel a waiver was appropriate. Jeff Goldfarb of Rutan & Tucker would normally be retained as special counsel; however, in this case, the Town of Apple Valley has also hired the firm of Rutan & Tucker as its special counsel for the General Plan update, causing a conflict with that firm. Ms. McDonald explains that staff sought outside counsel with no conflict in this case and Ms. Holly Whatley of Colantuono & Levin has indicated that the firm does not have a conflict and would be happy to represent LAFCO in this review. The cost at \$205 per hour will be borne by the Commission as those costs cannot be charged to the Town.

Chairman Colven asks how long it will take the special counsel to get up to speed on this issue. Ms. McDonald states the firm has served other LAFCOs, but the issue of the Town of Apple Valley will take some time and she anticipates the cost will be in the range of \$6,000 to \$8,000.

Commissioner Biane moves approval of the staff recommendation, seconded by Commissioner Hansberger. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson. Noes: None. Abstain: None. Absent: McCallon, Nuaimi.

**MUNICIPAL SERVICE REVIEWS FOR THE COMMUNITY OF APPLE VALLEY AND SPHERE OF INFLUENCE UPDATE/AMENDMENT REVIEWS – APPROVE STAFF RECOMMENDATION FOR ITEMS A-I**

LAFCO conducts a public hearing to consider municipal service reviews for the community of Apple Valley. Notice of this hearing has been advertised as required by law through publication in *The Sun* and *Apple Valley News*, newspapers of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Commissioner Biane states that Commissioner Mitzelfelt has indicated that he has had numerous contacts through his office expressing concern with this item, and has asked Commissioner Biane to convey to the Commission that he wishes to have this item continued to the September hearing. Ms. McDonald explains that the Commission may continue the item in its entirety or continue it and allow testimony from those who are

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present at the hearing. Chairman Colven asks if anyone in attendance wishes to speak on the record. A gentleman from Juniper Riviera County Water District states that he objects to the continuance and would like to have the matter heard. Commissioner Cox states she would like to assure continuance of this item does not impact those items already scheduled for the September hearing. She recommends that the Commission consider a second meeting in September. Ms. McDonald explains that the Hesperia community municipal service reviews are tentatively scheduled for September, along with status reports for LAFCO 3082, LAFCO 3050, and LAFCO 3067A-3067F. She states that the Apple Valley service review could be added to that agenda or a second meeting could be held. Commissioner Hansberger suggests holding a full-day meeting in September with a break from 12:00 p.m. to 2:00 p.m. Commissioner Hansberger suggests continuing the matter to September and taking testimony from those present today.

Commissioner Hansberger moves that the matter be continued to the next regular meeting on September 17, 2008, seconded by Commissioner Biane.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson. Noes: None. Abstain: None. Absent: McCallon, Nuaimi.

Commissioner Cox suggests holding the September hearing in the high desert. Commissioner Bagley agrees that this would be an appropriate location for the hearing. Commissioner Hansberger states that he believes that it would be appropriate for the hearing to be held in its regular meeting place.

Ms. McDonald states that staff will re-advertise the Apple Valley items.

**CONSIDERATION OF AMENDMENT TO LOCAL AGENCY FORMATION COMMISSION  
BENEFITS PLAN AND WAGE ADJUSTMENTS – APPROVE STAFF  
RECOMMENDATION**

LAFCO considers an amendment to its Benefits Plan and provide for wage adjustments. Ms. McDonald states the Commission has mirrored the County's Exempt Compensation Plan for its employees for more than 15 years. She states that when the County adopted its Exempt Compensation Plan this year, the Auditor/Controller indicated that it would not simply take action to implement those changes for LAFCO staff, but would need a specific action by the Commission. She says that the resolution presented for adoption outlines the revisions to the benefit plan and human resources policies and guidelines, copies of which have been provided to the Commission. She states that LAFCO staff's recommendation is to adopt Resolution No. 3017 amending the Human Resources Policies and Guidelines and Benefits Plan to mirror the County Exempt Compensation Plan benefit changes, approve the Salary Schedule amendment for wage adjustments indicating that all changes are retroactive to August 2, 2008 unless otherwise specified, transfer \$15,000 from Contingencies to pay for the upgraded benefits, and direct the Executive Officer to provide copies of the resolution to the appropriate entities to implement these changes.

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Commissioner Cox states she is pleased to see that the tuition reimbursement policy has been amended so that it now better addresses reimbursement for job-related classes. Ms. McDonald states that LAFCO's policy was somewhat different, but does include reimbursement to the Commission should the employee leave the service of the Commission. Commissioner Biane states that retroactivity is a sensitive issue and was not offered to any County employees. Ms. McDonald states that she was informed that the August 2 effective date, commensurate with that provided to County employees, would not be possible if this matter were considered at the September hearing, so that is the reason for adding this item within 72 hours of this hearing.

Commissioner Biane moves approval of the staff recommendation, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Biane, Colven, Cox, Hansberger, Pearson. Noes: None. Abstain: None. Absent: McCallon, Nuaimi.

**PENDING LEGISLATION**

Ms. McDonald reports on pending legislation as follows:

SB 301: This bill makes permanent the \$50 per capita subvention for inhabited annexations and incorporations put in place by SB1602. SB 301 has not been sent to the governor's office for signature since the governor has indicated that he will veto any bill that costs money until there is a budget. It is hoped that this will be signed within the time frames mandated.

SB 375: The Commission was given a copy of the amended language for this bill. CALAFCO has taken a position to support this bill even though the language had not yet been published, with the stipulation that if language was changed it would have the opportunity to reconsider. She states that the only reference to LAFCO in preparing the sustainable community strategy is that the metropolitan planning organization shall consider spheres of influence that have been adopted by LAFCOs within their region. No other reference is made to issues of concern for this LAFCO in acknowledging Special Districts and the services they provide when looking at the question of sustainable communities. She explains that the CALAFCO position is to support this bill because it does not diminish in any way or alter LAFCO's process.

SB 303: Ms. McDonald explains this bill is in the suspense file and its fate is unknown at this point.

Ms. McDonald states the Commission was given a copy of CALAFCO's report explaining the status of all bills of interest to CALAFCO.

Commissioner Biane asks, with reference to SB 375, if there was agreement on sustainability being an issue for LAFCOs to consider. Ms. McDonald states that the concern is that the writers of the bill are clear on spheres of influence. Nothing has been conveyed that the spheres of influence include the broad range of services. She believes that the sustainable communities process is admirable and it is a part of what LAFCO does. Commissioner Biane states this oversteps the bounds of where LAFCO has been in the past.

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Chairman Colven asks about the reasoning behind the preclusion of special districts service providers' participation in the planning process. Ms. McDonald states they were not included in the SCAG Compass project and have not been included in notification of these issues. She states it is a language issue and in this case further clarification could mean the full realm of spheres of influence. She states she has not been provided clarification on that issue to date.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald states the Commission was scheduled to be presented with services reviews for one community per hearing. In addition to the Apple Valley review now scheduled for September, Hesperia has been tentatively scheduled for consideration. The Barstow communities will be tentatively scheduled for consideration in October, and the Daggett, Newberry Springs and Yermo CSDs for November, along with the City of Adelanto, resolving the north desert service reviews. Following completion of those reviews, the mountains and south desert will be considered.

Ms. McDonald announces that nominations for the CALAFCO Board of Directors is an important issue, as representation for southern California is now down to one representative out of 13. Peter Herzog resigned his position over issues related to the direction of CALAFCO and the lack of consideration of southern California issues. Commissioner Biane states that it appears that the northern counties want LAFCO to become a planning agency. Commissioner Hansberger states that this takes decisions further away from the public by assigning the decision to bodies that are regionally appointed and not accountable to the people. Ms. McDonald states that the Southern California counties are asking their commissions again if there is any interest in serving. She states that the problem is that there are seven southern counties, and out of 57 members on CALAFCO, the majority vote is difficult to attain for Southern California. Ms. McDonald states there is concern from many of the Southern California LAFCOs regarding the direction of CALAFCO. She states she has distributed resumes of the three people running for the position, all of whom are from Northern California. Commissioner Biane asks if there is any possibility of a Southern California LAFCO Association being established. She states that there has been some discussion in that direction. Commissioner Hansberger states there are a small number of large counties in the south with large populations, and perhaps population should be considered in weighted voting. Chairman Colven comments that he would consider running; however, he is in the process of running for reelection in Big Bear City, and if he does not succeed in being reelected, he would lose his position with CALAFCO. Legal Counsel Clark Alsop explains that meetings are held quarterly and one of those meetings is held in the south, one is held at the annual CALAFCO conference and the other two are held in Sacramento. Ms. McDonald states there has been a change for the legislative committee in that in the past it was made up of LAFCO staffers, but the policy now is that members of the Executive Board are members of the Legislative Committee. That Committee meets more often in the January-May time frame as legislation begins. Ms. McDonald states she participates as an appointee of the CALAFCO Executive Board. Commissioner Hansberger comments that the state has a major structural problem relating to how it is governed.

Commissioner Cox asks how much the dues are for CALAFCO. Ms. McDonald states they are \$7,000 this year, but will probably be raised next year. She explains that the greatest value in participation with CALAFCO is the Legislative Committee. Mr. Alsop states that only one county in the state, Tehama, is not a member of CALAFCO. Ms. McDonald states

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the Southern California LAFCOs intend to meet after the annual conference to discuss this issue. Mr. Alsop states that perhaps this could be discussed at the Commissioners roundtable at the Conference.

Ms. McDonald announces that the County Fire Reorganization is 100 percent complete, as the State Board of Equalization has acknowledged the completion and has made the changes.

**COMMISSIONER COMMENTS**

Chairman Colven calls for comments from the Commission. There are none.

**COMMENTS FROM THE PUBLIC**

Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS ADJOURNED AT 10:05 A.M.**

**ATTEST:**

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**ANNA M. RAEF**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**ROBERT W. COLVEN, Chairman**