

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

**REGULAR MEETING**

**9:00 A.M.**

**JULY 16, 2008**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Jim Bagley</b>	<b>Larry McCallon</b>
	<b>Bob Colven, Chairman</b>	<b>Brad Mitzelfelt, Alternate</b>
	<b>Kimberly Cox</b>	<b>Mark Nuaimi</b>
	<b>James V. Curatalo, Alternate</b>	<b>Richard P. Pearson</b>
	<b>Dennis Hansberger, Vice Chairman</b>	<b>Diane Williams, Alternate</b>

**STAFF:**

- Kathleen Rollings-McDonald, Executive Officer**
- Clark Alsop, Legal Counsel**
- Samuel Martinez, Senior LAFCO Analyst**
- Michael Tuerpe, LAFCO Analyst**
- Anna Raef, Clerk to the Commission**
- Rebecca Lowery, Deputy Clerk to the Commission**

**ABSENT:**

**COMMISSIONERS:**

- Paul Biane**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION  
- CALL TO ORDER - 9:05 A.M.**

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

Chairman Colven requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

**COMMENTS FROM THE PUBLIC**

Chairman Colven announces that comments from the public will be taken before closed session is convened. Executive Officer Kathleen Rollings-McDonald states public comment is limited to five minutes per speaker.

Chairman Colven calls upon Patrick Milligan. Mr. Milligan states he is President of the Board of Directors of the San Bernardino Valley Municipal Water District. He states that the Water District considers the request for a stay by the San Bernardino Valley Water Conservation District, to be a hugely important act. He asks the Commission to note that in 1969, when the Orange County lawsuit was settled dividing water along the Santa Ana River, he was on the Board and that settlement agreement included a clause that allowed the San Bernardino Valley Municipal Water District to claim for the people of the San Bernardino Valley any new conservation water that would be developed in the future. The Water District had in mind that eventually there would be a second great dam on the Santa

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

Ana and at that time a huge amount of new conservation water that flowed to the ocean would be available. He says that dam was built and the District was responsible for getting the Army Corps of Engineers to move the site of that dam from Mentone to across the Santa Ana where it could be used for conservation purposes. He explains that the dam has a capacity of saving for the people of this valley up to 200,000 new acre feet of water that could never have been saved at any earlier time in history. He says the people in this valley have had a stormy relationship with the San Bernardino Valley Water Conservation District because, when the San Bernardino Valley Municipal Water District went to Sacramento to perfect the claim to the water, the San Bernardino Valley Water Conservation District fought the people of this valley before State officials in Sacramento. At that point, the San Bernardino Valley Water Conservation District said that if there is new conservation water, the San Bernardino Valley Water Conservation District owns it. He says that also was quickly rejected by the state. He points out that the state says there is new conservation water and that water has been awarded to the people of this valley to be administered by the San Bernardino Valley Municipal Water District. He says that means very simply that the San Bernardino Valley Municipal Water District will become the largest spreader of water that has ever existed in this valley because there will be a huge amount of new and available water. In addition, the District is the only spreader of water that has ever existed in this valley that has supplemental water coming in from the state. He explains that, that being the case, it was the recommendation of LAFCO that the San Bernardino Valley Water Conservation District be consolidated with the San Bernardino Valley Municipal Water District. He says this was not a death sentence to the Water Conservation District, but rather the people, represented by LAFCO, declared that one district can operate to the benefit of the people of this valley. He says that if the consolidation goes forward, \$700,000 of taxpayer money per year will be saved. He urges the Commission to say no to the stay because San Bernardino Valley Water Conservation District could not hope to have been given a stay by the court. He points out that this is a delaying tactic and he wants everyone to recognize this one fact: there is no useful purpose to be served by letting this very expensive environmental study become stale so that, at the end of a two-year appeal, a new environmental study would be required.

Chairman Colven calls David Aladjem to speak. Mr. Aladjem states he is counsel for the San Bernardino Valley Municipal Water District and that he is available to answer questions of the Commission.

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

**CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – 9:11 A.M.** – Conference Room adjacent to the San Bernardino City Council Chambers located at 300 North D Street, First Floor, San Bernardino.

Conference with Legal Counsel – Existing Litigation (Government Code Section 54956.9(a)): San Bernardino Valley Water Conservation District v. Local Agency Formation Commission, Superior Court Case No. SCVSS 147526.

**RECONVENE REGULAR SESSION – 9:48 A.M.**

Clark Alsop, Legal Counsel for LAFCO, reports that the Commission discussed the matter of San Bernardino Valley Water Conservation District v. Local Agency Formation Commission

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

with reference to the request to stay proceedings pending the outcome of the Court of Appeal decision. He states the Commission considered the issue and determined not to stay the proceedings but to continue the process.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF JUNE 18, 2008**

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead).

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS**

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

- ITEM 3. Approval of Executive Officer's Expense Report
- ITEM 3a. Ratify Payments as Reconciled for Month of June 2008 and Note Cash Receipts
- ITEM 4. Consideration of: (1) Review of CEQA Statutory Exemption for LAFCO 3092; and (2) LAFCO 3092 - Reorganization to Include City of Rialto Annexation and Detachments from San Bernardino County Fire Protection District and its Valley Service Zone and Bloomington Recreation and Park District (Mission Plaza Business Park)
- ITEM 5. Consideration of: (1) Review of Negative Declaration prepared by the County of San Bernardino for Tentative Parcel Map 17030 to Create 4 Parcels and a Remainder with a Major Variance for LAFCO SC #332, as CEQA Responsible Agency; and (2) LAFCO SC #332 - City of Montclair Irrevocable Agreement to Annex No. 08-28-I-82 for Sewer Service
- ITEM 6. Consideration of: (1) Statutory Exemption for LAFCO SC #334; and (2) LAFCO SC #334 – City of Redlands Service Agreement OSC 07-07 for Water Service (APN 298-331-49)
- ITEM 7. Year-End Budget Review for Fiscal Year 2007/08
- ITEM 8. Note Receipt of Proposal Initiated by Landowner Petition—LAFCO 3100 - Reorganization to Include Annexation to the City of Victorville, Victorville Water District, Victorville Fire Protection District, and Victorville Sanitary District, and Detachment from the San Bernardino County Fire Protection District and North Desert Service Zone

A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments, 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. LAFCO 3092 has been advertised as required by law through

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

publication in *The Sun* and the *Rialto Record*, newspapers of general circulation in the area. SC#332 has been advertised as required by law through publication in *The Sun* and the *Inland Valley Daily Bulletin*, newspapers of general circulation in the area. SC#334 has been advertised as required by law through publication in *The Sun* and the *Redlands Daily Facts*, 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 LAFCO 3092, SC#332 and SC#334 areas, pursuant to State law and Commission policy.

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

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3033; AND (2) LAFCO 3033 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR MOJAVE WATER AGENCY (CONTINUED FROM MAY 21, 2008 HEARING) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3033; and LAFCO 3033 – Service Review and Sphere of Influence Update for Mojave Water Agency. LAFCO 3033 has been advertised as required by law through publication in *The Sun* and the *Daily Press*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

LAFCO Analyst Michael Tuerpe reports LAFCO 3033 is a service review and sphere of influence update for the Mojave Water Agency. Mr. Tuerpe shows a map of the area and comments that the area is quite large and it has three distinct sphere areas, the area of Wrightwood, the central sphere and the eastern area including Grass Creek. He shows a map which depicts the 10 major sub-basins within the agency's boundaries; four to the south and six to the north. He says the six northern areas are the adjudicated boundary within the Mojave River basin for which the agency is the court-appointed Watermaster. He states the Mojave Water Agency is a state water contractor, one of 29 in the state. Mr. Tuerpe points out two facilities, the Mojave River Pipeline which delivers supplemental water to Barstow, Daggett, Yermo and Newberry Springs; and the Morongo Basin Pipeline which delivers water to the Yucca Valley and Morongo Basin area. He states that the agency extends into the boundaries and sphere of the Morongo Valley Community Services District (CSD) by about 11 square miles. He states the Morongo Valley CSD is not a water provider and if water service was granted to the District, water from the state water contractor cannot leave its boundaries. He states that the delivery of state water contract water to a specific area would require the formation of a separate entity, such as an improvement district to the Morongo Valley CSD or an improvement zone to County Service Area 70, thereby allowing water to be delivered to a defined area within the agency's boundaries, so state water contract water would not be leaving the boundaries of a contractor.

Mr. Tuerpe states landowners within the agency's boundaries pay three taxes to the agency, the general tax levy from which the agency receives a share, and two special taxes known

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

as Water Bond Debt 1 and Water Bond Debt 2. He says Water Bond Debt 1 is for repayment of state water project contract costs and any variable cost for that water. In the budgets and audits it is identified as MWA1. He states Water Bond Debt 2 has two components: 2(a) is for water project contract costs not covered by Water Bond Debt1; and 2(b) is for water bond debt and has a general administration component for the agency. LAFCO staff reviewed this with the agency and this is the tax structure that was implemented. He adds that LAFCO staff asked the agency how their share of the one percent ad valorem general levy was derived; however, the agency did not provide an answer to this question. He states that at the last LAFCO hearing he noted that LAFCO staff was requested to present the service review options regarding the sphere of influence and their powers to the Board of Directors of Mojave Water Agency and seek their input and recommendations. He says the agency Board of Directors requests affirmation of the existing sphere of influence and LAFCO concurs. The agency is currently authorized water and sewer functions. Mr. Tuerpe states that for water, the service descriptions include acquisition, wholesale and retail; however, the agency is also the court-appointed Watermaster and a state water contractor. Therefore, the agency requests the addition of service descriptions of replenishment, conservation and basin management. He explains that the agency is not a provider for sewer, but it would like to keep the descriptions of regional treatment and wastewater reclamation because it is a regional agency. He states that if the need arises for regional treatment in the future there is a possibility of the agency playing a role in that establishment. The Mojave Water Agency Board of Directors therefore requests retention of the two functions, water and sewer, and LAFCO staff concurs with this request.

Chairman Colven calls for questions from the Commission. Commissioner Pearson comments that this is one of the most thorough and in-depth studies he has seen as a LAFCO Commissioner and he commends staff and particularly Mr. Tuerpe for the work done on this review. He states it provides an important insight on the agency that serves the public. He also commends Mr. Brill and the staff of Mojave Water Agency for a first-class effort. He adds that Mr. Larry Chimbole brought forth legislation in 1978, AB213, to provide a different makeup of the agency and thereby help it to overcome difficulties at that time, and it worked out quite well. Commissioner Pearson states he phoned Mr. Chimbole who expressed his appreciation and asked for a copy of the report.

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

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

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3071; AND (2) LAFCO 3071 - DISSOLUTION OF THE VICTORVILLE FIRE PROTECTION DISTRICT (SUBSIDIARY DISTRICT OF THE CITY OF VICTORVILLE) (CONTINUED FROM MAY 21, 2008 HEARING) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3071; and LAFCO 3071 – Dissolution of the Victorville Fire Protection District (Subsidiary District of the City of Victorville). LAFCO 3071 has been advertised as required by law through

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

publication in *The Sun* and the *Daily Press*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Ms. McDonald states the next three items are an outgrowth of the Municipal Service Review that was conducted for the City of Victorville. She states that at that time the Commission decided to provide a zero sphere of influence to the three subsidiary districts for the City of Victorville, Fire, Park and Recreation and Sanitary. She states the items on today's agenda address the determinations made in that Municipal Service Review.

She says LAFCO 3071 is the proposal for the dissolution of the Victorville Fire Protection District. She states the maps identify the area that is currently part of the Victorville Fire Protection District and the overlay of the City's boundaries. Of importance are territories outside the existing boundary of the Victorville Fire Protection District. She says four primary issues will be considered. With reference to boundaries, she says there are two specific areas that must be addressed in looking at the potential dissolution of the Victorville Fire Protection District. The first is the Coad Road island area which is shown on the overhead maps. This area is currently a part of the Victorville Fire Protection District but is not within the boundaries of the City of Victorville. She states the second area is the territory along the northeastern boundary of the City and outside its boundaries, north of the southerly right-of-way of I-15. The Apple Valley Fire Protection District boundary extends to the right-of-way of I-15 below Stoddard Wells Road. The area outside the City's boundaries is currently part of the Victorville Fire Protection District. Ms. McDonald explains there are two options to address this issue in considering this dissolution: one is to require the City to provide the existing level of service to the areas following dissolution and require that an out-of-agency service contract identify that extension of service; or, the Commission may require that these areas are included in the sphere of influence and annexed to the San Bernardino County Fire Protection District and its North Desert Service Zone. She explains that this is important since, in the interim between the date of the May hearing and today, the City of Victorville has contracted with County Fire to provide its fire suppression services. She says staff's recommendation is that Option 2 be approved by the Commission to clarify the responsibilities of fire protection. She highlights the financial considerations as follows: The dissolution will clarify the existing structure for financing this District and the City has supplemented the funding for fire protection for over 30 years. She explains that for over 30 years the City has treated the Fire Protection District as a department of the City and budgeted in that way, so that the dissolution will actually clarify the responsibilities of the District. She notes that as part of staff's review, as stated in the report, in 2006-2007 funding for fire protection services by the Victorville Fire Protection District was \$7.2 million, and \$4.5 million of that came from the City's General Fund, about 63 percent of the financing for this District. She states that is exactly what the City contemplated when this District became a subsidiary district. When the City absorbed the District, it was a volunteer fire protection program which provided an augmented level of fire protection service. She says that, as part of the review, LAFCO staff asked questions regarding the pass-throughs for the redevelopment agencies that exist within the Fire Protection District. LAFCO staff determined that Victor Valley Economic Development Authority pass-through funding has not gone to the District, but has been placed in the City's General Fund. Over a three-year period, the total was about \$2.2 million. She says the District does not have a separate assigned appropriation limit, but it is included in the overall appropriation limit of the City. She explains that one condition for dissolution would be that the City's existing appropriation limit be adjusted for the estimated property tax revenues for the district for the prior fiscal

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

year. She states the County contract has been signed, operational as of July 5, 2008, identifies that the City will pay a minimum of \$11.4 million to the County for fire suppression services. This is a rolling 10-year contract with a one-year opt-out provision. She says County Fire submitted a request for the Commission to review an exemption from Government Code Section 56133 for this contract.

She states that, for service considerations, this dissolution will actually recognize the existing operation of this agency. Regarding continuing service provision to areas outside the City, LAFCO staff recommends requiring that the City submit an application to include these areas in the San Bernardino County Fire Protection District before issuance of the Certificate of Completion. She states there would be no break in service if the dissolution is approved, as the mutual aid agreements that currently exist, with Hesperia and Apple Valley Fire would still respond to these areas and there would no break in coverage for the I-15 corridor. She says LAFCO staff has reviewed and circulated this proposal for comment and no comments were received, probably because most citizens believe the District it is a City fire department and not a separate district.

Ms. McDonald reports that Tom Dodson of Tom Dodson and Associates has reviewed the proposed dissolution and has determined that it is statutorily exempt from environmental review.

Ms. McDonald states that LAFCO staff recommends that the Commission approve the dissolution and move forward in good government process that will reflect to its constituents the actual operation of the District and how it is actually funded. She says that pages 1 and 2 of the staff report reflect the conditions that apply to this proposal, which are included in the draft resolution.

Chairman Colven calls for questions from the Commission. Chairman Colven asks if receipt of the application to expand the sphere of influence and proposed annexation to the San Bernardino County Fire Protection District would hold the Certificate of Completion in abeyance until such time as that application is received. Ms. McDonald states that it would. She explains that when County Fire was reorganized, those areas that were within an independent fire provider were specifically excluded from its boundaries and sphere of influence.

Commissioner Nuaimi asks how many acres are included in the Coad Road island area. Ms. McDonald states it is 93 acres. He asks how many acres are included in the northern I-15 territory. She states it is CalTrans right-of-way and is uninhabited. She adds that those distinctions were put in place to clarify responsibility along the I-15 from Dale Evans Parkway to Stoddard Wells Road.

Commissioner Mitzelfelt refers to an island titled "Mountain View Acres," and asks if it is affected by this recommendation. Ms. McDonald states it is not currently a part of the Victorville Fire Protection District and is under the jurisdiction of the San Bernardino County Fire Protection District presently. He asks if the \$2.2 million identified as VVEDA pass-through which should have gone to the Fire District is included in one of the conditions of approval. Ms. McDonald responds that it is not, because all of the property tax revenues attributable to the Fire Protection District will be transferred to the City General Fund, which includes those revenues.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

Chairman Colven opens the public hearing and calls upon those wishing to speak.

Doug Robertson, Deputy City Manager, City of Victorville, states his comments apply to all three dissolutions, LAFCO 3071, LAFCO 3072 and LAFCO 3073. He indicates that City of Victorville staff agrees with LAFCO staff's recommendation and staff report; however, there are some differences of opinion on some items which are not material at this point. He states the City has been operating the Districts as departments and the former Finance Director who had been with the City for over 30 years is certain she had received a letter from the state 15 to 20 years ago instructing her to account for the Districts in this manner; however, City staff was unable to locate that letter.

Commissioner Mitzelfelt asks Mr. Robertson to describe generally the areas of disagreement. Mr. Robertson states that staff has indicated that the Districts have been accounted for improperly, and while he agrees that they have been run as departments from an accounting perspective, they have been kept separate on paper. Commissioner Mitzelfelt asks if he disagrees with anything moving forward today. Mr. Robertson indicates he does not.

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

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3072; AND (2) LAFCO 3072 - DISSOLUTION OF THE VICTORVILLE RECREATION AND PARK DISTRICT (SUBSIDIARY DISTRICT OF THE CITY OF VICTORVILLE) (CONTINUED FROM MAY 21, 2008 HEARING) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3072; and LAFCO 3072 - Dissolution of the Victorville Recreation and Park District (Subsidiary District of the City of Victorville). LAFCO 3072 has been advertised as required by law through publication in *The Sun* and the *Daily Press*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Ms. McDonald states the Victorville Recreation and Park District is a subsidiary district of the City and its boundaries are much larger than the existing City boundary. She states that for over 30 years the Victorville Park and Recreation District has overlain the two Mountain View Acre islands, the Coad Road and the entirety of the Spring Valley Lake community. She states the residential portion of the Spring Valley Lake community is included, but the lower area including Victor Valley College and the commercial area are currently part of the City. Commissioner Cox asks if Spring Valley Lake is in Victorville's sphere of influence, to which Ms. McDonald responds it is. She states that it is staff recommendation that prior to the issuance of the certificate of completion the City provide an out-of-agency service contract to clarify the continuation of service to the areas outside the existing City boundary, in order to resolve any future questions regarding the portion of property tax which funds the service. She states that this District also has been operating as a City department for the last 30 years and was actually a Board-governed district before establishment as a subsidiary district. She explains that during the establishment as a subsidiary district of the City, there were major areas in the northern end of Apple Valley that were detached from

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

this District to allow it to meet the 70% land area requirement to become a subsidiary district. She states the City General Fund has supplemented the operations of the Park District and for the 2006-2007 budget year the supplement was \$1.2 million of the \$5.6 million budget. She states that the Victor Valley Economic Development Authority pass-through due to the Park and Recreation District was transferred to the City totaling \$1.9 million over the last three years. She states the District does not have a separate appropriation limit and a condition of approval included the recommendation to expand the existing City of Victorville appropriation limit. She states the plan for service does not include the existing debt of the Victorville Park and Recreation District. There is an existing certificate of participation from the California Special Districts Association Financing Corporation. She states LAFCO staff has reviewed the question of the ability to transfer that debt to the City with the City's legal counsel and with the California Special Districts Association. She states this debt can be transferred to the City as the successor agency and it would have no impact on bond-holders. She states dissolution will provide for recognition of the actual operation of this District and will provide for a better understanding and transparency of its operation. She says that to continue service to areas outside the boundary of the City, it is appropriate that an out-of-agency service contract be provided prior to the issuance of the Certificate of Completion. She states a number of park and recreation districts in the County have been dissolved and their successors have been cities. There have been questions thereafter regarding the park operations and funds outside the City, including the implementation of Quimby Act fees. She states the out-of-agency service contract would resolve that issue. She adds that the proposal was circulated and no comments were received. Staff believes most people believe this District is currently a part of the City and were unaware that it is a separate district.

Ms. McDonald states LAFCO staff supports the City's application to dissolve the agency. She explains that Condition E is the requirement for the provision of the contract and Condition H requires that in future years the property tax attributable to this agency transfer to the City.

Chairman Colven calls for questions from the Commission. Chairman Colven states reference is made to a 1989 debt for development of a community center and indicates that the community center has not been identified by the City. Ms. McDonald states Mr. Robertson could probably answer which community center that debt service refinanced. Chairman Colven states Section F reads that the successor agency shall separately maintain the funds and asks if this would preclude any commingling of funds. Ms. McDonald states that those funds that have been impressed with a public purpose, such as development impact fees for park purposes and any type of funding that has been received with a specific purpose would be maintained separately. The general property tax will be transferred to the City as a whole and will not be separated out. Chairman Colven asks Mr. Robertson if he is aware of the location of the facility in question. Mr. Robertson states he believes it is Hook Community Center. Commissioner Cox confirms that it is.

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

Commissioner Mitzelfelt 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: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead).

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3073; AND (2) LAFCO 3073 - DISSOLUTION OF THE VICTORVILLE SANITARY DISTRICT (SUBSIDIARY DISTRICT OF THE CITY OF VICTORVILLE) (CONTINUED FROM MAY 21, 2008 HEARING) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider CEQA Statutory Exemption for LAFCO 3073; and LAFCO 3073 – Dissolution of the Victorville Sanitary District (Subsidiary District of the City of Victorville). LAFCO 3073 has been advertised as required by law through publication in *The Sun* and the *Daily Press*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, and those agencies and individuals requesting mailed notice.

Ms. McDonald reports that the boundaries of this agency do not include the Spring Valley Lake area and there are a number of internal exclusions. The existing boundary for the District includes 73 square miles and the City includes 76 square miles. The exclusion areas inside the City comprise the Civic Center area, a ranch along the river, the area west of the Coad Road island, the commercial area, the Victor Valley College area, and a part of CSA 42 (Oro Grande Community). Many of the exclusion areas currently receive service through the Sanitary District and approval of this dissolution will resolve this conflict in that it provides for the authority to provide sanitary sewer service. It will also overlay the two areas currently provided sewer service by another entity, CSA 42 on the north and CSA 64 on the southeastern area. While this duplication of service is only on paper, the City and County have acknowledged that the sewer provision in these areas is provided by the County Service Areas and they continue to overlay the City boundaries, so staff does not believe there will be an actual duplication of service. She says the dissolution will clarify the existing financial responsibilities. All three of these agencies have been staffed by City employees under various departments and the employees that provide service to the Sanitary District are primarily located in the Public Works Department with the City's Finance Department providing for billing services. She notes that the report states that the budgetary information showed only a revenue for service charges for 2006-2007, and the City has acknowledged that property tax revenues were inadvertently included in service charges, but that the City received \$1.3 million in property tax revenue. She says this agency, too, was due a share of the pass-through for redevelopment in the amount of \$1.2 million over a three-year period. The District also does not have an assigned appropriation limit. She explains that this District had an outstanding loan to the City General Fund, made during the 1993-1994 fiscal year in the amount of \$3.4 million. LAFCO staff reviewed resolution of this issue with City staff so that the dissolution could move forward. Options included a repayment schedule with or without interest, or the loan could be forgiven. The City Council, acting as the Board of Directors, has chosen to forgive this loan. She states a condition of approval requires that any funds deposited for the benefit of the Victorville Sanitary District must be maintained following the dissolution under a separate account. This would include sewer connection fees, charges to capital improvement accounts, etc. She states that, for service considerations, the dissolution will actually reflect how the agency has been operated for 25 years. In this case also, no response to the circulation of the proposal was provided. She explains that there is potential to transfer the responsibility of the Sanitary District to the Victorville Water District, another subsidiary district of the City of Victorville, as County water districts have the authority to provide for water and sewer service. However, that was rejected by the City of Victorville and LAFCO staff's opinion is that dissolution and giving authority to the City of Victorville is the most appropriate response to the future provision of

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

this service. She states staff recommends approval of this dissolution and actions to be taken are identified in the staff report. She adds that Tom Dodson of Tom Dodson and Associates reviewed and determined that the dissolution is statutorily exemption from environmental review.

Chairman Colven calls for questions from the Commission. Commissioner Mitzelfelt asks what "dissolution will recognize the actual operation of this agency" means. Ms. McDonald explains that the City has operated the agency as a department of the City for 25 years. She says it has a separate line item in the budget but there are not separate actions taken by the City sitting as the Victorville Sanitary District; it is simply an overall operation of City government. Commissioner Mitzelfelt asks if the review included a look at the City's membership in the joint powers authority, the Victor Valley Wastewater Reclamation Authority (VWVRA). Ms. McDonald states it did and the City of Victorville and not the Victorville Sanitary District is a member of the joint powers authority. Commissioner Mitzelfelt states that, as a practical matter, sewer service in the City is handled by the department and the regional and reclamation at the main plant is handled by VWVRA. Ms. McDonald states the collection system is operated by the Sanitary District and it is transported and treated by VWVRA. He asks if the City anticipates duplicating service in the vicinity of Southern California Logistics Airport, the former George Air Force Base, in the future. Mr. Robertson states it does not. He asks if the Council made findings with regard to forgiving the loan, including determining that this would be a government benefit as the dollars were ostensibly collected to pay for sanitation services. Mr. Robertson states the options were to forgive the loan, which the City chose to do, or the City could have repaid the loan, increasing the reserves that were in the Sanitary District, which, assuming that LAFCO will dissolve the District, would ultimately come back to the General Fund. Therefore, this seemed to be the most expedient way to resolve the issue. Commissioner Mitzelfelt asks staff if there are any reservations about the status of that loan. Ms. McDonald states the loan was given to the City General Fund for a government purpose, but there is no way to know from where those revenues came; i.e., the general administration accounts of the Sanitary District which would be supported by general taxes, or capital accounts, which are required to be maintained as a separate fund with a fiduciary responsibility. She says there is very little to know about the source of the loan, but the action of the City includes a statement that operation of this District will transfer to the City General Fund so that the loan should be forgiven. Commissioner Cox states the City agendized it for a public meeting and asks Mr. Robertson if there were any comments regarding the loan. Mr. Robertson states there were not. Commissioner Nuaimi states that far too many cities in the early to mid '90's were being creative in identifying funding sources to help bridge some of the General Fund constraints placed by the State. He states that it seemed oftentimes the sewer capital fund was used to bridge that gap, causing a deficit in future years. Ms. McDonald states there were budgets that were impacted severely at that time; however, there is no way to know where these funds came from. The budget documents have a fund balance carryover year to year, so it is possible it was from the fund balance from the District or it could have been from capital funds, but there is no way to know. The request was made of the City to provide documentation but the City was unable to find that documentation. Mr. Robertson states the City is unaware if it went to the City Council. Ms. McDonald points out that the City of Victorville is first in the nation for growth. Chairman Colven asks if the dissolutions were publicized. Ms. McDonald states they were publicized, and the discussion about contracting for fire service with the County especially, was well publicized in the Victor Valley in the Daily Press. She states that, in addition, the newspaper accounts referred to LAFCO's process. She explains that the proposed

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

dissolutions were circulated to fire protection, and park and recreation agencies within a three-mile radius, including the County and independent agencies. Ms. McDonald states that the Fire District, Park and Recreation District and Sanitary District vehicles bear the City's logo, so the people who receive the services have assumed that these agencies were part of the City. Commissioner Hansberger states most of the districts predate the existence of the City of Victorville and when the City of Victorville incorporated in 1962 it made a choice to simply make these subsidiary districts of the City and the City has operated them for a very long time. He states that for all practical purposes, these districts have always been departments of the City. Ms. McDonald states that the City of Victorville, at the time of its incorporation, did not have a property tax nor did it levy a tax. Commissioner Hansberger states Victorville was referred to as a "paper city." Commissioner Mitzelfelt comments that the City of Victorville is now a charter city, so it has come a long way. He asks if there is evidence that there was a loan. Ms. McDonald states it has been documented throughout the City's comprehensive annual financial reports that this loan occurred, and those documents have been in existence for more than 12 years. Commissioner Cox asks how this relates to LAFCO 3082, the sphere of influence expansion. Ms. McDonald states LAFCO 3082 was set aside for the City of Victorville to complete its General Plan update. She explains that these agencies no longer have a sphere of influence, because when the Victor Valley community municipal service reviews were done all three Districts were assigned a zero sphere. Commissioner Cox inquires about the status of the General Plan revisions. Mr. Robertson states he does not have an update today; however, it should be within a few months. Commissioner Curatalo asks how the Commission can be assured that the amount is correct without documentation. Ms. McDonald explains that an outside audit firm confirmed the total, but the only identification of this loan is in the comprehensive annual financial reports.

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

Commissioner Hansberger moves approval of the staff recommendation, seconded by Commissioner Mitzelfelt.

Commissioner Nuaimi states the correspondence from April 2008 from the City of Victorville indicates that the \$3.4 million loan from the General Fund appears as an asset of the use fees account within the Sanitary District. He states that he is uncomfortable with an entity forgiving a loan from a designated fund for a designated purpose through a consolidation. Ms. McDonald states LAFCO is not acknowledging that. The forgiveness of that loan occurred last fiscal year; and if, in fact, it had not been forgiven LAFCO would have had to assign the loan as a fiduciary responsibility to a separate fund of the City. As the forgiveness occurred in the prior fiscal year, there is nothing to address by the Commission.

Chairman Colven asks if this would this set a precedent. Ms. McDonald states it does not. LAFCO Counsel Clark Alsop states that the Commission, by its action, would not be taking any precedential position, as the staff report gives information that there was a loan, and the City Council as the governing body, forgave the loan. Ms. McDonald states that if the Commission does not approve the dissolution, the loan still will have been forgiven.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead).

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

**CONSIDERATION OF REQUEST FOR WAIVER OF FILING FEES FROM THE YERMO  
COMMUNITY SERVICES DISTRICT FOR ACTIVATION OF WATER POWERS –  
APPROVE STAFF RECOMMENDATION**

LAFCO considers a request for waiver of filing fees from the Yermo Community Services District for Activation of Water Powers. Ms. McDonald states the District has made a request that the filing fees for activating its water powers be waived. Staff recommends that the Commission acknowledge that this request will be processed as part of the municipal service review related to the Yermo CSD. She states the Yermo, Daggett and Newberry Springs CSDs will be reviewed in the coming months. Staff requests that the District be required to provide the deposits because under a service review, the District is required to assume the direct cost of processing including environmental review and publication, and that the CSD be required to provide materials that would be required for a sphere expansion in order to fully evaluate the water service function that the District desires. She states staff recommends that the Commission approve the request for waiver of LAFCO fees, that the Commission acknowledge it will be covered as a part of the service review, that the Commission require the District to provide a \$1,900 deposit toward direct cost, and that the Commission require the District to provide the materials requested by staff. Commissioner Cox comments that, in a former iteration of the LAFCO law, Yermo CSD's water power was rendered latent, due to no request of theirs, and now they wish to exercise that power. She asks if, as a policy matter, how this would affect other agencies who may not have requested their powers to become latent, but at a later date choose to exercise. Ms. McDonald states it was not a LAFCO law, but was the community services district law rewrite that obligated all existing community services districts to identify their active functions. When that went into effect on January 1, 2006, LAFCO was required to identify the active functions of existing CSDs and their latent powers. The requirement was reviewed with the District and the District responded that they did not provide water and that it should become a latent power. She states she understands the District's position, but it was not at LAFCO's request. Commissioner Cox states that, through a legislative action, powers were rendered latent, so she questions if it is appropriate to charge fees to reactivate those powers. She comments further that for a district as small as Yermo, even \$1,900 may be a challenge.

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

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

**NOMINATIONS FOR CALAFCO BOARD OF DIRECTORS POSITIONS**

Ms. McDonald states the Executive Director of CALAFCO has put out a call for nominations for the vacant County position on the CALAFCO Board of Directors. She says only one of the incumbents is running, so there will be two open seats and so far there are no nominations. She states that if someone wishes to be nominated, the Commission may take action today. There are no nominations.

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

**PENDING LEGISLATION REPORT**

Ms. McDonald states the pending legislation report was provided to the Commission at today's hearing, and reports as follows: AB 1998 (Silva), relating to those individuals or groups which secure funds for campaigns in opposition or support of a LAFCO action, transfers responsibility for filing to the FPPC. AB1263 (Caballero) relating to amendments to islands, fees, deposits and other non-substantive changes to LAFCO law has been signed and will take effect January 1, 2009. AB2484 (Caballero) proposes amendments to the Cortese-Knox-Hertzberg Local Government Reorganization Act and has been sent to the Governor. SB1458 (Committee on Local Government) is the CSA Law Rewrite and has been sent to the Governor. She says a letter of support from the Commission has been sent to the Governor. AB3047 (Assembly Local Government Committee) has been signed. SB301 (Romero), the motor vehicle fee bill, to make permanent the \$50 per capita charge for inhabited annexations and corporations, is on the Assembly floor for its third reading. SB375 (Steinberg), the sustainable communities bill, has not been amended and circulated for comment. SB303 (Ducheny) on June 9 was completely amended as an alternative to SB375. She says that legislation includes the language that spheres of influence and municipal service reviews must be addressed in determining transportation and their commensurate land use plans and also identifies that there should be a discussion with all levels of service provision, including special districts who provide services such as water and sewer when a question of sustainable communities is discussed. She states the CALAFCO Executive Director is currently reviewing it with the stakeholders. She will return next month with an update on that bill. She states there is no requirement for action other than to note the report.

Chairman Colven asks, with reference to SB375, what the opposition is to including LAFCO. Ms. McDonald states the emphasis in the legislation relates to transportation issues, which is not typically within the purview of LAFCO and there is some reticence to introduce a service provider entity decision into that mix. She states SB303, as a competitive bill to SB375, acknowledges that and addresses some of CALAFCO's concerns. Chairman Colven asks how the figure of 200,000 persons was calculated. She states it is a classification system that is used for counties to determine urban, rural, suburban, etc. Commissioner McCallon states the opposition to SB375 from SCAG, SANBAG and League of California Cities centers around putting the actual RHNA cycle and RTP cycle together so that the same growth forecast is considered for both, and secondly, relating to self-help counties, the bill limits the use of the funds collected under Measure I so those funds could not be used for projects that had been put before the voters. That is one of the major reasons for opposition. Ms. McDonald states SB303 is an alternative to SB375 in an effort to appease some of the factions that oppose SB375. Commissioner McCallon states that SB 1118 is on Senator McLeod's list of bills under land use planning and development, which the Inland Empire Division of the League of California Cities, the City of Highland, and the County oppose; however, it is still moving forward. Commissioner Hansberger states several cities in the county have opposed it. He states a separate airport land use commission existed in the past; however, it was difficult to get a quorum and the public rarely attended. It was then decided it was better to make this part of the general planning process. He states he does not understand Senator McLeod's objective. She initially stated it was because she wanted control over airports because of the collision that occurred over Norco and Corona; however, this would not in any way control that kind of activity. He states the City of Upland has

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

requested that this bill be removed. Senator McLeod has exempted Ontario Airport. Ms. McDonald comments that, at one time, because of the lack of quorums, there was a request made to LAFCO to sit as the airport land use commission, and LAFCO respectfully declined. Commissioner Pearson states Commissioner Bagley is a member of the County Airports Commission and perhaps could shed some light on the issue. Commissioner Bagley states he believes it would be a duplication of effort since the County is already providing this function. Commissioner Hansberger asks if the Commission could take a position at this time.

Commissioner Hansberger moves that LAFCO join other local government agencies in opposition to SB1118, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead).

Commissioner Bagley comments that reapportionment will be an issue at the end of this decade and he would like to see LAFCO have some role in the discussion of reapportionment. As the largest county in the State of California, San Bernardino has the most egregious examples of gerrymandering. He believes that in the municipal service review process, communities should identify other communities of interest for the reapportionment process. As an example, the City of Twentynine Palms would not choose some of the communities with which they are associated as communities of interest. He believes it is a natural extension for LAFCO to participate in that throughout the State of California and would like to pursue that as a legislative idea. He believes it would be a natural process during the municipal service review for communities to declare with which communities they wish to state they are compatible. Legal Counsel Clark Alsop comments this issue is not on today's agenda, but it could be added to a future agenda for discussion. Chairman Colven states he believes this could be a meaningful discussion. Commissioner Bagley states he believes LAFCO is the most logical entity to make these determinations. Ms. McDonald states this matter can be added for discussion in August.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald states information regarding the San Bernardino County Water Conference was distributed to the Commission today. She announces that if any Commissioner wishes to attend, please let LAFCO staff know.

Ms. McDonald states that on June 27 she sent out a request for waiver of legal counsel conflict regarding an annexation involving the Cucamonga Valley Water District. Today is the day for notification if anyone has an issue. If there are no issues, she will sign the waiver. She adds that the matter is not controversial at this time.

Ms. McDonald states that information from Best, Best & Krieger on the Brown Act, including new information on rules for gifts to a public agency was distributed to the Commission today.

Ms. McDonald states the August agenda will include municipal service reviews of the Apple Valley community and a service contract. The September agenda will include

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF JULY 16, 2008**

municipal services reviews of the Hesperia and Barstow communities, the City of Adelanto and the Yermo, Daggett and Newberry Springs CSDs.

**COMMISSIONER COMMENTS**

Commissioner Pearson states he would like to request a municipal service review be conducted for Victor Valley Wastewater Reclamation Agency, in light of the fact that there has been a great deal of controversy in the press pertaining to that agency. Ms. McDonald states that at the direction of the Commission, the joint powers authority can be requested to provide information for a report much like the Mojave Water Agency report. She states LAFCO has no real authority or responsibility for a joint powers authority, but the fundamental question of a municipal service review goes beyond the agencies over which LAFCO has direct authority. She explains that LAFCO looks at water companies, private and mutual, including those in Apple Valley and other areas. LAFCO can review the wastewater system for the north desert, but it would be a report that would identify how it operates and would illuminate some issues.

**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 11:20 A.M.**

**ATTEST:**

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

**LOCAL AGENCY FORMATION COMMISSION**

\_\_\_\_\_  
**ROBERT W. COLVEN, Chairman**