

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JUNE 18, 2008**

REGULAR MEETING

9:00 A.M.

JUNE 18, 2008

PRESENT:

COMMISSIONERS:	Jim Bagley	Brad Mitzelfelt, Alternate
	Paul Biane	Mark Nuaimi
	Bob Colven, Chairman	Richard P. Pearson
	Kimberly Cox	Diane Williams, Alternate

STAFF:

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

ABSENT:

COMMISSIONERS:

- James V. Curatalo, Alternate**
- Dennis Hansberger, Vice Chairman**
- Larry McCallon**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– 9:00 A.M.**

CALL TO ORDER – 9:11 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.

SWEARING IN OF REGULAR CITY MEMBER OF THE COMMISSION

Clerk to the Commission Anna Raef administers the Oath of Office to Regular City Member Mark Nuaimi, whose term of office expires in May 2012.

APPROVAL OF MINUTES FOR REGULAR MEETING OF MAY 21, 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: Biane, Colven, Cox, Mitzelfelt, Pearson, Williams. Noes: None. Abstain:

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Nuaimi. Absent: Hansberger (Commissioner Mitzelfelt voting in his stead), McCallon (Commissioner Williams voting in his stead).

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

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

- ITEM 2. Approval of Executive Officer's Expense Report
- ITEM 3. Ratify Payments as Reconciled for Month of May 2008 and Note Cash Receipts

A Travel Claim and 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 is on file in the LAFCO office and are made a part of the record by their reference here. Individual notice of this hearing was provided to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice.

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

DISCUSSION ITEMS:

CONSIDERATION OF: (A) REVIEW OF MITIGATED NEGATIVE DECLARATION PREPARED BY THE CITY OF HIGHLAND FOR THE DAVID CHONG HIGHLAND ANNEXATION, PRE-ZONING GENERAL PLAN AMENDMENT AND TENTATIVE TRACT MAP 16636, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3095 AND LAFCO 3096; (B) LAFCO 3095 - SPHERE OF INFLUENCE AMENDMENT FOR CITY OF HIGHLAND (EXPANSION) AND CITY OF SAN BERNARDINO (REDUCTION) (CHONG); AND (C) LAFCO 3096 - REORGANIZATION TO INCLUDE ANNEXATIONS TO CITY OF HIGHLAND, CONSOLIDATED LANDSCAPE AND LIGHTING DISTRICT NO. 96-1, AND DETACHMENT FROM CITY OF SAN BERNARDINO (CHONG) – APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider Review of Mitigated Negative Declaration Prepared by the City of Highland for the David Chong Highland Annexation, Pre-Zoning General Plan Amendment and Tentative Tract Map 16636, as CEQA Responsible Agency for LAFCO 3095 and LAFCO 3096; LAFCO 3095 - Sphere of Influence Amendment for City of Highland (Expansion) and City of San Bernardino (Reduction) (Chong); and LAFCO 3096 - Reorganization to Include Annexations to City of Highland, Consolidated Landscape and Lighting District No. 96-1, and Detachment from City of San Bernardino (Chong). Notice of the hearing was advertised as required by law through publication in *The Sun* and *The Highland Community News*, newspapers of general circulation within the reorganization area, pursuant to state law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies

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and to landowners and registered voters within and surrounding the reorganization area, County departments and those individuals and agencies requesting mailed notice.

Senior LAFCO Analyst Samuel Martinez states LAFCO 3095 and 3096 will adjust the boundaries between the City of Highland and the City of San Bernardino and relates to a single parcel. He says LAFCO 3095 is a sphere amendment proposal that will remove the area from the City of San Bernardino's sphere and place it into the City of Highland's sphere, and LAFCO 3096 proposes to detach the parcel from the City of San Bernardino and annex it into the City of Highland and its Consolidated Landscape and Lighting District No. 96-1.

The area is a single parcel, APN 1191-341-15, comprised of approximately 3.62 acres, located at the terminus of Applewood Street, whose southern parcel line is the common boundary line between the cities of San Bernardino and Highland. The parcel is proposed to be developed into a five-lot residential subdivision. He explains that due to the location of the parcel and the topography of the land, direct access to the parcel is only available through the City of Highland.

Mr. Martinez provides an aerial view of the property and notes that the boundaries are not straight. He says that, upon development of the proposed tentative tract and its connection to Applewood Street, services including street sweeping, street lighting, trash removal, fire protection, paramedics and law enforcement will simply connect to the services currently being provided on Applewood Street through the City of Highland. Therefore it is LAFCO staff's position that this boundary exchange between the City of Highland and the City of San Bernardino is reasonable, since the parcel can be served more efficiently and more effectively by the City of Highland. In addition, the boundary exchange is an easily identifiable boundary for service delivery since the proposed tentative tract will simply connect to Applewood Street, which is currently being served by the City of Highland.

Mr. Martinez states the City of Highland prepared an initial study and approved a mitigated negative declaration for the sphere change, the annexation, the pre-zoning, the general plan amendment as well as the tentative map to create five lots on the 3.62 acre parcel. The City's environmental assessment has been reviewed by the Commission's environmental consultant, Tom Dodson and Associates. Mr. Dodson's review indicates that the City's documents are adequate for use in reviewing LAFCO 3095 and LAFCO 3096, and that the staff report identifies the necessary actions that the Commission must undertake as CEQA responsible agency in consideration of LAFCO 3095 and LAFCO 3096.

Mr. Martinez summarizes the factors of consideration for the SOI amendment as follows:

Present and Planned Land Uses: The parcel is currently vacant. The City of San Bernardino's existing land use designation for the area is Residential Low with 10,800 minimum square-foot lots. The City of Highland assigned a general plan designation of Low Density Residential and pre zoned the area as single family R-1 district with 20,000 square-foot minimum lot sizes, almost double the assigned lot sizes of the City of San Bernardino. The lots within the proposed Tentative Tract range from between 24,000 to 42,000 square feet.

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Present and Probable Need for Public Facilities and Services: The parcel is currently vacant, so service needs are minimal; however, the proposed development will require municipal-type services in order to develop. He says the area is already in the East Valley Water District, and the District will provide water and sewer service to the parcel which is required for the proposed development.

Present Capacity of Public Facilities and adequacy of Public Services: Mr. Martinez states the City of Highland provides a full range of municipal services and the City's plan for service identifies how the proposed tentative tract will be served. In addition, the East Valley Water District can provide water and service to the proposed tentative tract.

Existence of Social or Economic Communities of Interest: He states the parcel has been a part of the City of San Bernardino since the area was annexed in 1979. The southern boundary of the parcel has been the common boundary line between the Cities of San Bernardino and Highland since the City of Highland incorporated in 1987. However, since access to the parcel is only available through the City of Highland, it would seem that the community of interest would be the City of Highland. Therefore this action will bring this parcel into the City of Highland's sphere of influence, and ultimately, upon approval of the reorganization, into the City of Highland.

Mr. Martinez explains that the City San Bernardino's general plan zoning for the area and the City of Highland's general plan amendment for the parcel are generally compatible, and the City of Highland's pre-zoning, single family R-1 designation is consistent with its general plan as well as the surrounding land uses.

Mr. Martinez states that fire protection is currently provided by the City of San Bernardino's Fire Department and will transfer to the City of Highland's Fire Department which contracts with Calfire for fire protection and paramedics. Upon annexation and upon development of the tentative tract, each of the lots or the units will be subject to the \$19 dollar per year special paramedic tax. Law enforcement responsibility will also transfer from the City of San Bernardino's Police Department to the City of Highland, which contracts for law enforcement services with the County Sheriff's Department.

Additionally, through the annexation to the City of Highland's Consolidated Landscape and Lighting District No.96-1, each lot will have an additional tax assessment of about \$23.75 for operation and maintenance of street lighting, landscaping, parks and trails.

He says that, as required by Commission policy and state law, the plan for service shows that the extension of services will maintain and/or exceed current service levels from the City of San Bernardino.

Mr. Martinez states that the Registrar of Voters has certified that the reorganization area is legally uninhabited; the County Assessor's Office has verified that the reorganization area has 100% landowner consent to the annexation, and, to date, no opposition has been received. Therefore, if the Commission approves LAFCO 3096, staff recommends that it waive further protest proceedings for LAFCO 3096 and direct the Executive Officer to complete the action following the mandatory 30-day reconsideration period.

In conclusion, Mr. Martinez states the parcel is proposed to be developed into a five-lot residential subdivision, which requires municipal services in order to develop. Through

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the sphere of influence amendment (LAFCO 3095), the parcel will become a part of the City of Highlands sphere, a requirement for annexation. And through approval of the reorganization (LAFCO 3096), the City of Highland and all other effected agencies will extend services in the most efficient and effective manner. For those reasons, staff recommends approval of LAFCO 3095 and 3096 by taking the actions identified on pages one and two of the staff report.

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

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

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

**DISCUSSION OF IMPLEMENTATION METHODOLOGY FOR CONDITION NO. 30 FOR
RESOLUTION NO. 2989 APPROVING LAFCO 3000 – “COUNTY FIRE
REORGANIZATION” – APPROVE STAFF RECOMMENDATION**

Executive Officer Kathleen Rollings-McDonald states this item relates to the methodology to implement Condition No. 30 of the County Fire Reorganization (LAFCO 3000). She explains that the final element for review by the Commission relates to issues which have surfaced from County Fire and County Special Districts indicating that the transfer of Community Facilities District 2002-02 could not be done. This potentially affects the ability to complete the proposal. The County has taken the position that this transfer in governance could not be done according to terms of the Mello-Roos Community Facilities District Act of 1982. LAFCO staff's and Legal Counsel's response was that the Commission does, in fact, have the ability under Government Code 56886(u) to transfer a Mello-Roos community facilities district to a different agency.

Ms. McDonald states that this dispute could not be resolved and so LAFCO staff convened a meeting of all the affected parties, including representatives of the City of Fontana, County Fire, County Administrative staff, and County Special Districts staff, to determine how to resolve the issue in order to allow the County Fire Reorganization to move forward to fruition. LAFCO staff proposed, after consultation with LAFCO Legal Counsel, a method to address this issue without accepting the County position on the transfer of the administration of CFD 2002-02. She explains that that pragmatic approach is to allow for a contract between the County and the existing Central Valley Fire Protection District which will transfer the governance of the City of Fontana, to continue the operation and maintenance of this community facilities district. She announces that yesterday, the County Board of Supervisors adopted that contract as a board agenda item and LAFCO staff recommends that the Commission acknowledge this methodology to implement and fulfill Condition No. 30 of the overall County Fire Reorganization, allowing for the Certificate of Completion to be issued on Friday, June 20, with an effective date of July 1. She says that LAFCO staff believes that this approach meets the intent of the Commission's action, as well as the intent of law.

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Chairman Colven calls for questions from the Commission. Commissioner Nuaimi asks for the amount of annual revenue generated from the CFD, to which Ms. McDonald responds that it is roughly \$563 per acre, and is in the range of \$400,000-\$500,000. Its funding is intended to provide for fire protection services in an area that did not participate in the generation of central valley revenues.

Commissioner Nuaimi asks if, during the previous review, there were some concerns that the CFD was not being universally to development as it occurred. He asks if that is the case. Ms. McDonald responds that the condition and discussion regarding administration of CFD 2002-02 did identify some concerns relating to annual administration and application to parcels as they were subdivided and changed. She says that was brought to the attention of County Fire and County Special Districts, who administer that CFD. She states it is her understanding that the process to place the assessments on the tax roll by August is being done. She adds that the County has entered into a contract with David Taussig and Associates to do that. As the Fontana Fire Protection District, the City of Fontana City Council will be allowed to review that administration.

Commissioner Cox asks Ms. McDonald to review the financial impact, as it appears that there will be an annual administrative fee. Ms. McDonald responds that there will be an administrative fee, as the County Special Districts charges all entities where it performs services. Ms. Cox asks if this fee is required because there is no ability to transfer this Mello-Roos to the new district. Ms. McDonald responds that it is not a new district, this CFD is operated and was created under the County of San Bernardino, and the condition was to transfer the governance and administration of that to the Fontana Fire Protection District; however, the contractual obligation imposes the administrative fee. Ms. Cox states she understands the importance of this action but has concerns with the administrative fee being imposed. She believes it should be transferred in order to apply it to fire service for the people within that community. She asks if this issue can be addressed at a later date. Ms. McDonald states the contract can be amended through discussions once the Fontana Fire Protection District takes over. That would be a question for the Fontana Fire Protection District to resolve with the County.

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

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

DISCUSSION OF LETTER FROM BLOOMINGTON INCORPORATION COMMISSION, INC. REQUESTING CONSIDERATION OF WAIVER OF CIRCULATING PETITION SIGNATURES AND COMMISSION POLICY ON SPHERE AMENDMENTS FOR INCORPORATION – APPROVE STAFF RECOMMENDATION

Ms. McDonald states LAFCO staff is presenting a letter dated May 14, 2008, from the Bloomington Incorporation Commission (BIC) which requests several determinations by the Commission regarding a future potential incorporation effort for the community of

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Bloomington. The letter requests that the Commission waive its Policy No. 25 relating to sphere of influence determinations allowing for the concurrent submission of an application for incorporation of the Bloomington community and sphere of influence reductions for the Cities of Rialto and Fontana, and secondly, that the Commission accept the petitions submitted for consideration of LAFCO 3075 as the initiating document for incorporation. Ms. McDonald states that LAFCO staff recommends that the Commission waive the policy relating to sphere of influence determinations. However, LAFCO staff notes that, while the letter acknowledges the sphere reduction for the City of Rialto, there is still sphere territory for the City of Fontana included in the Bloomington incorporation effort. Ms. McDonald points out on the map the island annexations that have occurred in the City of Fontana. She says that LAFCO staff recommends that the Commission acknowledge and waive Policy 25, noting that a proposal would be required to reduce the spheres of influence for the Cities of Fontana and Rialto. Ms. McDonald notes that, though negotiations are identified in the letter between BIC and the City of Rialto, the sole authority for the sphere of influence determination rests with the Commission.

Ms. McDonald continues and explains that the second request is that the prior incorporation petitions be utilized to initiate a new proposal. LAFCO staff conveyed in an email (included as an attachment to the staff report), that this is not legally possible. The prior proposal, LAFCO 3075, was closed as an official record on March 21, 2007. She says that BIC was refunded the balance of the funds submitted at the time. Therefore, because this proposal was officially closed, staff does not believe that the Commission has the legal authority to resurrect it fifteen months later. Therefore, the only way to initiate a new incorporation proposal is one of two methods allowed by law. Those methods are: 1) circulation of a new petition for the territory that can now legally be considered for an incorporation of Bloomington; or 2) initiation of incorporation by resolution of an affected agency. Ms. McDonald indicates on the map the territory that is currently available for incorporation for a new city of Bloomington, and says the exclusion area, LAFCO 3066, was approved, annexing the territory to the City of Rialto, which excludes this unincorporated territory from the ability to be included in a new City of Bloomington. She points out the areas which have been annexed to the City of Fontana which cannot be included in a new City of Bloomington. So this proposal, a new incorporation, would be for a substantially different territory requiring a new map and legal description, feasibility study and either a new petition or a resolution of adoption initiating the incorporation proposal. She states that LAFCO staff recommends that the Commission acknowledge the waiver of your incorporation policy and that the requirement to initiate this incorporation must be through those provisions outlined in LAFCO law.

Chairman Colven calls for questions from the Commission. Commissioner Bagley asks if the area to the south which appears to be in Riverside County is proposed to be incorporated also. Ms. McDonald states that an incorporation cannot include territory in another county. Commissioner Bagley asks if there could be a separate incorporation for Bloomington in Riverside County. Ms. McDonald responds that state law currently confines a city to a single county. Commissioner Bagley asks if that is a new law. Ms. McDonald responds that that law has been in place as long as she has been with LAFCO, over 29 years. Commissioner Bagley comments that the logical boundary would cross county lines. Ms. McDonald states the same is true in the Yucaipa-Calimesa area, where Yucaipa is in San Bernardino and Calimesa is in Riverside County. Those cities

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share a school district and a single water district, but they are two separate cities because they cannot incorporate across county boundaries. Commissioner Bagley comments that this is something that perhaps could be addressed with CALAFCO as a possible legislative remedy. Ms. McDonald states it is possible to change county boundaries, however, both counties must consent.

Commissioner Mitzelfelt asks for an explanation of the purpose of the incorporation policy and what would be the effect of waiving the requirement. Ms. McDonald states the purpose is to prevent incorporation of territory that is in the sphere of influence of another city. Because of instances where other areas within city spheres of influence have proposed incorporation, the Commission established the policy a number of years ago requiring that, first, the discussion relating to the sphere of influence change would take place before any incorporation proposal was accepted. There was a policy declaration of the Commission, if the sphere was not going to be changed and the Commission would deny that sphere change, that the incorporation could not go forward. In this case, a precedent was set when the Commission waived that policy when presented with the sphere of influence amendments from BIC related to Fontana and Rialto. BIC is asking for the same thing because there is precedent in this area and LAFCO staff is recommending that the Commission continue in this manner. Commissioner Mitzelfelt asks if LAFCO staff recalls the purpose of the waiver. Ms. McDonald states it was to allow BIC to move forward. There was a great deal of discussion and the community felt impeded by not being allowed to submit its incorporation proposal, even though the sphere of influence required much of the same material to be reviewed. Commissioner Mitzelfelt states he was not on the Commission at the time so he would probably oppose the waiver.

Chairman Colven asks if there are further comments from the Commission. There are none.

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

Eric Davenport, Chairperson for the Bloomington Incorporation Commission states that BIC did submit a request that the sphere of influence fees be waived because of the last decision made by the Commission. He explains that the reason for the request for waiver of the petition signatures is that the areas that were incorporated into Rialto from Bloomington have no residences and the areas that were incorporated into Fontana only provided 30 or 40 signatures because those residents believed that they were already part of Fontana. He comments that gathering signatures is very time-consuming and difficult during the summer when temperatures are over 100 degrees. Mr. Davenport states that BIC believes that its efforts would be better spent in updating the feasibility study.

Ms. McDonald clarifies that the waiver of the sphere requirement is recommended only for the incorporation proposal policies, not a waiver in its entirety.

Mr. Davenport states BIC "never really quit LAFCO." He says that when BIC encountered restrictions, it decided to go in another direction and work with Rialto to resolve some of the issues, and that BIC has met regularly since its last appearance at LAFCO. He believes BIC never let the incorporation effort lapse, but simply took it in a different direction.

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Commissioner Pearson points out that a date was set for payment of the fees before anything would move forward relating to the previous application and that agreement was not met. Mr. Davenport agrees that that promise was made, but the business which had made the commitment to assist with the fees did not do so. At that time, BIC attempted to collect funds and was able to collect over \$30,000; however, LAFCO denied BIC's request for a six-week extension. Mr. Davenport emphasizes that BIC would have been able to collect the rest of the funds during that six weeks.

Chairman Colven asks Mr. Davenport if he realizes that BIC's original application was closed and that it is starting over with a new application. Mr. Davenport says yes, BIC understands that, but was looking for assistance in overcoming the signature problem because it is a hardship on a small group. He reminds the Commission that a significant amount of "sweat equity" was put into gathering the signatures previously, and that when some of them were not valid, BIC proceeded to gather more signatures. He points out that it is evident that the community is still behind what BIC is doing. He states the cost of having a public meeting, sending out mailers, and paying for insurance to meet at the high school is a burden on BIC's financial situation. He states that the Registrar of Voters stopped counting signatures when the required number was reached, so he believes BIC collected at least 800 to 1,000 more signatures than were needed on the second attempt.

Chairman Colven asks Legal Counsel Clark Alsop is there any legal jeopardy in waiving the signature requirement. Mr. Alsop states that he does not believe the Commission has the legal authority to waive the signatures as this would be a new application, while the Commission does have the legal authority to modify or to waive its policy on the sphere issue. He says Ms. McDonald has outlined two different ways to initiate the application; either by petition and by resolution of application of an affected local agency, which eliminates the need for a petition.

Commissioner Williams asks Mr. Alsop to explain the initiation of incorporation by resolution of application by an agency. Mr. Alsop states BIC would have to ask an affected local agency to pass a resolution initiating the application. For example, the County of San Bernardino is an affected local agency and the Board of Supervisors could pass a resolution initiating the application and the County would then be the applicant. Commissioner Williams suggests that BIC pursue this method and suggests investigating if the City of Fontana or a special district could pass that resolution.

Commissioner Cox asks LAFCO staff if there are any applications pending from the City of Fontana, as it appears BIC will be requesting some of the current Fontana sphere of influence. Ms. McDonald responds that staff is aware that the City of Fontana has sent letters to residents of its sphere territory discussing a potential annexation; however, LAFCO has no official application.

Commissioner Nuaimi asks if an updated fiscal analysis for the prior incorporation effort has been submitted by BIC. Ms. McDonald states the information that was received by LAFCO staff and evaluated and presented to the Commission previously did not include an updated fiscal analysis.

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Commissioner Pearson points out that, this is new application. In the previous application, the date for the payment of fees was well established, that date was not met, and an action was taken at that point which ended the process. Mr. Davenport states that, at that time, BIC had a major business in the area that had pledged to contribute whatever funds were not raised, so BIC requested an additional six weeks to raise the funds, but that extension of time was denied. Mr. Davenport states if that extension of time had been granted, BIC would have been able to raise the additional funds.

Commissioner Cox moves to deny overriding Commission Policy 25, which requires that the sphere of influence amendment be submitted and processed prior to the submission of an incorporation proposal and to support staff recommendation to deny BIC's request to accept the petitions submitted for consideration of LAFCO 3075, seconded by Commissioner Mitzelfelt.

Mr. Alsop clarifies that the motion is to deny the override of Policy 25 and to support staff recommendation to require signatures.

Commissioner Nuaimi states that he will oppose the motion he does not believe this area should be removed from spheres of influence, but does believe BIC should be given an opportunity to go through the process for incorporation. He says that, in order for BIC to pursue incorporation, the Commission would have to make a determination that Bloomington does not belong in Rialto's sphere of influence. He does not believe it would be a logical conclusion, that Rialto isn't the logical municipal service provider in this area. He says he would prefer that the Commission continue to give BIC the opportunity to prove that they can incorporate. He believes the staff's recommendation is a valid approach, so he will oppose the motion.

Mr. Alsop asks, for clarification purposes, to have a voice vote on the motion. Ms. Cox suggests separating the motion into two separate motions. Chairman Colven asks Ms. Cox to restate the first motion.

Commissioner Cox moves to deny overriding Commission Policy 25, which requires that the sphere of influence amendment be submitted and processed prior to the submission of an incorporation proposal, second by Commissioner Mitzelfelt.

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

Commissioner Cox moves to support staff the recommendation to deny BIC's request to accept the petitions submitted for consideration of LAFCO 3075 eliminating the areas annexed to the Cities of Rialto and Fontana and to support the staff recommendation to acquire new signatures, seconded by Commissioner Nuaimi.

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

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Commissioner Cox asks for clarification on whether this action stops the process. Mr. Alsop replies that it does not; it only starts to process to move forward.

Commissioner Bagley encourages the people of Bloomington to work on getting the proposal submitted.

PENDING LEGISLATION REPORT

Ms. McDonald distributes her report and states it is a review of pending legislation presented by CALAFCO which is of interest to LAFCOs. She reports the following:

AB1998 (Silva) transfers responsibility for review and posting of campaign contributions from LAFCO to the FPPC. It is moving slowly through the process.

AB1263 (Caballero) relates to changes to islands, fee schedules and other non-substantive changes. She reports that an amendment has been made to remove from the legislation a proposal to define railroad land ownership and its effect on determining consent to annexations. The railroad lobby had some concerns and has asked that it be removed with the intent of working with CALAFCO to bring back legislation next year.

AB2484 (Caballero) relates to inclusion of the exercise of new or different powers and the divesture or removal of powers to be defined as a change of organization. She says this clarifies the statutes because there has been question legally on implementation. The bill passed out of the Senate Local Government Committee on June 4 and on May 27 the CALAFCO Executive Officer contacted all LAFCOs with Special Districts representation asking for a position on this bill because some concern had been raised and there was the potential for opposition. She states it was conveyed to the CALAFCO Executive Officer that the Commission had reviewed this piece of legislation previously and had expressed no concern, but that staff would return to the Commission to ask for an official position in support of this proposed clarification language. Ms. McDonald states she has attached a draft letter of support and recommends that the Chairman be authorized to sign the letter.

SB1458, the CSA Law Rewrite, had minor amendments in Committee from the Howard Jarvis Association, which asked for Proposition 218 clarification. She says the minor amendment has been included and she received notification that this bill passed out of the Senate and will be forwarded to the Governor for signature. LAFCO staff recommends authorization to forward a letter of support as soon as it is delivered to the Governor.

AB3047 is the annual omnibus bill sponsored by CALAFCO and the Assembly Local Government Committee. It is on the consent calendar.

SB301 has moved forward. This bill is the solidification of VLF subventions to be paid to new incorporating cities and for annexations of inhabited territory. This bill makes the \$50 per capita fee permanent. Commissioner Nuaimi asks if the fiscal analysis for BIC included the \$50 per capita subvention. Ms. McDonald states it did not.

AB1191 proposes to add broadband equipment and transmission to the authorized services for CSDs. This bill is now on the Assembly floor.

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SB375 (Steinberg) relating to sustainable communities strategies has not changed or moved; however, Ms. McDonald states Senator Steinberg, as Chairman Pro Tem of the Senate, intends to push this effort. To date, no amendments have been issued. The League of California Cities and CALAFCO have taken the position of oppose unless amended.

Ms. McDonald states the recommendation is as follows:

- that the Commission officially take a position in support of AB2484 (Caballero) and direct staff to send the letter of support to members of the legislative team for San Bernardino County;
- that the Commission send a letter of support to the Governor in support of SB1458 following its submission for signature;
- give LAFCO staff direction on any other legislative actions the Commission wishes to consider.

Commissioner Mitzelfelt asks Ms. McDonald to summarize AB2484. Ms. McDonald states AB2484 clarifies language that the process of expanding or divesting the services of a special district is a process under the change of organization provisions, specifically LAFCO law provides a process to expand the range of functions and services that special districts provide. She gives the example of the County Fire Reorganization, which included a number of county service areas whose fire, ambulance and disaster preparedness powers were removed as a function of that overall reorganization to clarify service responsibilities. She says there has been some question in the past as to the ability to adjust the services provided by municipal water districts; therefore, this legislation is to clarify the process.

Commissioner Pearson moves approval of the staff recommendations, seconded by Commissioner Nuaimi. The Commission agrees by consensus to submit the letters of support for AB2484 and SB1458.

EXECUTIVE OFFICER'S REPORT

Ms. McDonald states the Commission is provided with copies of the CALAFCO Annual Request for Achievement Awards. She asks for authorization to submit the County Fire Reorganization for consideration for the CALAFCO Achievement Award.

Ms. McDonald states the Commission is also provided with information on nominations for the CALAFCO Board of Directors. CALAFCO has asked that nominations be submitted by August 4, 2008. Openings include three County positions, two City positions, and two special districts positions available. She states that if anyone on the Commission is interested, that person could be nominated at the July hearing. She comments that representation from southern California is limited and most meetings are held in Sacramento. Mr. Alsop states that the Executive Board meets four times per year, at least twice in Sacramento, once annually in southern California, and the last meeting is held wherever the annual conference is held. Ms. McDonald states that members of the Executive Board are on the Legislative Committee. Mr. Alsop states that committee meets during the legislative session, usually in Sacramento. Commissioner Mitzelfelt asks how many nominations could be considered for each county. Ms.

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McDonald explains the nominations are not sought by county, but by category. San Bernardino LAFCO could nominate a person for each category if it wishes. The participating LAFCOs at the annual conference would make the selections. She says Supervisor Biane was on the CALAFCO board for two years. Commissioner Mitzelfelt states this item should be agendaized for July. Ms. McDonald asks members of the Commission to advise LAFCO staff of an interest in being nominated.

Ms. Cox states it would be appropriate to submit Dennis Hansberger for a distinguished service award or outstanding commissioner as he was a member of this commission for a number of years. She also believes LAFCO staff should submit a nomination for Executive Officer Kathleen Rollings-McDonald as outstanding Executive Officer.

Ms. Cox suggests submitting the County Board of Supervisors for the government leadership award for their support of the County Fire Reorganization.

(It is noted that Commissioner Nuaimi leaves at 10:25 a.m.)

Ms. McDonald states the CALAFCO Annual Conference will be held September 3-5 at the Universal Sheraton in Hollywood. She reminds the Commissioners to notify the Clerk if they intend to attend.

She states CALAFCO has partnered with the Special Districts Association to identify methods to increase special district representation on those LAFCOs who do not have special district representation. Approximately 50 percent of LAFCOs currently have special district representation. San Bernardino has had that representation since 1976. She says CALAFCO will be seeking help in mentoring some of the other LAFCOs on this responsibility. Chairman Colven suggests sending a letter of support.

Ms. McDonald gives an overview of future agendas and states the July agenda will tentatively include the three dissolutions for the Victorville subsidiary districts, municipal service reviews for the Apple Valley community and its special districts, municipal service reviews for the communities of Yermo, Daggett, and Newberry Springs. She says August will tentatively include municipal service reviews for the Hesperia community and its special districts, the community of Barstow and its special districts, and the opening discussion of the Environmental Impact Report for LAFCO 3076, which is the consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District.

Ms. McDonald comments that staff has received good response from the south desert and mountain communities on their municipal service reviews.

Commissioner Bagley asks if LAFCO is mandated to determine how it is funded. Ms. McDonald states the funding is identified in the legislation, dependent upon the composition of the Commission. She says there are a number of LAFCOs which have no cities and no special district representation, so the LAFCO is made up of three county supervisors and two public members. Funding in those cases is solely a burden of the county. For counties with county and city members, the burden is split in half, and for counties with special districts, the burden is divided in thirds.

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Commissioner Mitzelfelt asks if districts other than Baker have objected to sharing LAFCO costs. Ms. McDonald states some concern has been expressed, but the process was decided by the special districts themselves. They formulated and voted on a funding structure that divided up how it would be apportioned, including a decision that healthcare or hospital districts would be limited in the burden they would pay. Commissioner Mitzelfelt volunteers to facilitate a meeting between members of the Commission and staff at Baker CSD. He will work with Ms. Cox to arrange such a meeting.

Commissioner Bagley complimented Mr. Martinez on incorporating Google Earth into his presentation and states he hopes to see more of it in the future.

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 10:35 A.M.

ATTEST:

ANNA M. RAEF
Clerk to the Commission

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ROBERT W. COLVEN, Chairman