

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF NOVEMBER 28, 2007**

**REGULAR MEETING**

**8:30 A.M.**

**NOVEMBER 28, 2007**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Paul Biane</b>	<b>Brad Mitzelfelt, Alternate</b>
	<b>Bob Colven, Chairman</b>	<b>Mark Nuaimi</b>
	<b>Kimberly Cox</b>	<b>Richard P. Pearson</b>
	<b>Dennis Hansberger, Vice Chairman</b>	<b>A.R. "Tony" Sedano, Alternate</b>
	<b>Larry McCallon</b>	<b>Diane Williams, Alternate</b>

**STAFF:**

**Kathleen Rollings-McDonald, Executive Officer**  
**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**

**CONVENE CLOSED SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – 8:33**

**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 TO REGULAR SESSION – CALL TO ORDER – 8:48 A.M.**

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

Counsel Clark Alsop indicates that there were no reportable actions from the Commission's closed session.

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.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF OCTOBER 24, 2007**

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

**CONSENT ITEMS:**

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

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- ITEM 2. Approval of Executive Officer's Expense Report
- ITEM 3. Ratify Payments as Reconciled for Month of October 2007 and Note Cash Receipts
- ITEM 4. Review and Approval of Contract with Consultant to Prepare Environmental Impact Report for LAFCO 3076 - Consolidation of San Bernardino Valley Water Conservation District and San Bernardino Valley Municipal Water District
- ITEM 5. Initiation of Municipal Service Reviews/Sphere of Influence Updates for all Mountain and South Desert Region Local Agencies

A Travel Claim and Visa Justification for the Executive Officer's expense report, as well as staff reports outlining the staff recommendations for the reconciled payments, and the other consent items, have been prepared and a copy of each is on file in the LAFCO office and are made a part of the record by their reference here. Notice of these consent items has been advertised as required by law through publication in The Sun, a newspaper of general circulation.

Chairman Colven asks if there is anyone present wishing to discuss any of the consent calendar items. There is no one.

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

**DISCUSSION ITEMS:**

**CONTINUED FROM OCTOBER 24, 2007 HEARING – CONSIDERATION OF (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3018; AND (2) LAFCO 3018-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 42 – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider: a Municipal Service Review and Sphere of Influence Update for County Service Area 42. Notice of the original hearing was advertised as required by law through publication of an 1/8<sup>th</sup> page Ad in The Sun and Daily Press, newspapers of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

LAFCO Analyst Michael Tuerpe states that LAFCO 3018 is a sphere of influence update and municipal service review for County Service Area 42. Mr. Tuerpe says CSA 42 is located in the north desert portion of the County and is generally east of the Mojave River, east and west of National Trails Highway, and generally north of the City of Victorville, serving the community of Oro Grande. He explains the southern portion of CSA 42 is within the sphere of influence of the City of Victorville and its subsidiary district, the Victorville Water District, as modified by the Commission's action in July 2007. Mr. Tuerpe shows an aerial view of CSA 42 and states that CSA 42 is currently authorized to provide water, sewer, recreation and park, street lighting, and solid waste services.

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He explains that the district encompasses approximately 493 acres with a population of approximately 422. He says the land uses within the district include vacant, mining, residential, and some agricultural use. Mr. Tuerpe states that, given the resources and land uses within the district, the community of Oro Grande cannot support the type of growth the remainder of the North Desert has experienced. If growth is to occur, or if the parcels outside the district's boundaries request connection to its sewer or water system, these facilities would need to be expanded. He states that the groundwater basin is adjudicated and over-drafted, and future supplies are limited. Mr. Tuerpe continues noting that the historic trend for the district's water production indicates little variation with less than half of its Free Production Allowance being produced. Thus, it does not have a replacement water obligation to the Watermaster and it sells its unused Free Production Allowance to other CSA's and receives payment for the transfer. Mr. Tuerpe notes that the capacity of the CSA 42 facilities does present challenges. This position is based upon the system having only one reservoir and no inter-ties with any other agencies or a back-up reservoir. Three of the four wells have experienced a decrease in production over the years. He states that, even with decreased production, the wells are producing sufficient amounts to supply the existing customers at this time, but they would have difficulty serving in the summer months if one of the wells went out of service.

Mr. Tuerpe states infrastructure expansion projects proposed for the district include the addition of a new well and back-up reservoir. These projects were submitted for Proposition 50 funding and are eligible for consideration in the next round of grant funding to take place next year. He says the District is a member of the Victor Valley Wastewater Reclamation Authority (VWVRA) and Special Districts staff indicates that the majority of the facilities are in good condition; however, there is one portion where the lines are in poor condition because repairs cannot be made due to lack of access. Mr. Tuerpe states that the community center is currently being upgraded through CDBG funds and upgrades for the ball field are in the planning stage and have been awarded State grant funds totaling \$100,000.

Mr. Tuerpe notes that CSA 42 is primarily funded through customer charges and property taxes, and according to its most recent audit, its net assets increased 15%. Currently, the district has sufficient revenue to support the streetlights in the area; however, it receives no pass-through from the Victor Valley Economic Development Authority (VVEDA), which has resulted in the depletion of all reserves to fund street lighting operations. Mr. Tuerpe explains that Special Districts indicated that it has not provided solid waste services since 1999 and that Burrtec Industries now provides solid waste removal. Therefore, staff recommends that the Commission remove solid waste as an authorized function for CSA 42. Special Districts has indicated that it has no objection to this recommendation.

Mr. Tuerpe states that while the Special Districts Department did not request amendment of the CSA 42 sphere of influence, LAFCO staff is recommending an expansion of CSA 42's sphere to include territory already within its boundaries. In 1979, the most recent boundary change, annexed 65 acres to the east of National Trails Highway. At the time there appeared to be confusion as to the location of the sphere and the area was annexed without a sphere expansion. LAFCO staff is recommending that the Commission expand the sphere to include the 65 acres that were annexed in 1979. Mr. Tuerpe states expansion of the sphere will make CSA 42's boundaries and sphere coterminous and in compliance with LAFCO law. Mr. Tuerpe states no change in land use for the area will occur through inclusion of the area within CSA 42's sphere. The Commission's Environmental Consultant has determined that LAFCO 3018 is statutorily exempt from environmental review and that a decision by the Commission to modify the sphere boundaries is consistent with actual delivery of services.

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Mr. Tuerpe states that, in conclusion, staff recommends that the Commission receive and file the municipal service review and make the related determinations, remove solid waste as an authorized function, and expand the sphere of influence of CSA 42 making its boundaries and sphere coterminous.

Chairman Colven asks where the \$200,000 apportioned for solid waste will be redirected. Mr. Tuerpe explains that the budget is in two parts, the first including water and sewer and the second including parks and recreation and street lighting. The monies will remain in the budget to be used in other areas if needed.

Chairman Colven asks if there is anyone present wishing to discuss this item. Commissioner Pearson asks about the last audit for this district. Mr. Tuerpe states Special Districts staff has indicated that the audit is in process for 2006-2007 and that the audit from 2005-2006 and budget data from 2006-2007 were used for this review.

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

**CONTINUED FROM OCTOBER 24, 2007 HEARING - CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3024; AND (2) LAFCO 3024-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR COUNTY SERVICE AREA 64 – TAKEN OFF CALENDAR**

LAFCO conducts a public hearing to consider the Municipal Service Review and Sphere of Influence Update for County Service Area 64. Notice of the original hearing was advertised as required by law through publication of an 1/8<sup>th</sup> page Ad in The Sun and Daily Press, newspapers of general circulation in the area, pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Mr. Tuerpe states that in the interim between hearings, LAFCO staff has received and analyzed all requested and required material from the County Special Districts Department for this item. LAFCO staff then met with First District and Special Districts staff to review the draft staff report. He says one of the primary issues arising from this meeting was the delivery of services within CSA 64's boundaries. He states that, since that time, LAFCO staff received a letter from the First District Supervisor requesting that this item be taken off calendar to allow time for his staff to consult with County Counsel regarding the types of services delivered within the boundaries of CSA 64. Mr. Tuerpe indicates that staff recommends that the Commission take this item off calendar with instruction to return the item for Commission consideration as soon as possible with the requirement of readvertisement and with the request that Special Districts and First District staffs continue to work with LAFCO staff regarding resolution of issues related to service delivery within CSA 64's boundaries.

Commissioner Biane 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: Biane, Colven, Cox, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: None.

**CONTINUED FROM OCTOBER 24, 2007 HEARING - CONSIDERATION OF: (1) FINAL ENVIRONMENTAL IMPACT REPORT AND ADDENDUM TO FINAL ENVIRONMENTAL IMPACT**

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**REPORT (FOR FONTANA DEVELOPMENT CODE UPDATE) ADOPTED BY CITY OF FONTANA FOR FONTANA GENERAL PLAN UPDATE (STATE CLEARINGHOUSE NO. 2003031083), AS CEQA RESPONSIBLE AGENCY FOR LAFCO 3056; (2) ADOPTION OF FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS; AND (3) LAFCO 3056 - CITY OF FONTANA ANNEXATION NO. 169 (MONARCH HILLS) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider a proposal to annex territory to the City of Fontana: Notice of the original hearing was advertised as required by law through publication in The Sun and Fontana Herald News, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and to landowners and registered voters within and surrounding the review area pursuant to State law and Commission policy..

(Commissioners Mitzelfelt and Biane announce they have a conflict on this item and will abstain from voting. Commissioners Mitzelfelt and Biane leave the hearing at 9:05 a.m.)

LAFCO Analyst Samuel Martinez reports that this item was continued from the October hearing. He says this is an annexation, initiated by the City of Fontana, for approximately 457 acres, generally located west of the I-15 freeway, and north of Coyote Canyon Road. He states that at the time the application was submitted to LAFCO, over one year ago, the proposal was in response to a development application being processed by the City. That proposal was a 302-lot residential development on about 213 +/- acres. He states that the October staff report indicates that the project proposal was withdrawn by the property owner; however, the City notified LAFCO staff that it wished to continue processing the annexation.

Mr. Martinez states it is the position of LAFCO staff that this annexation is a logical and reasonable extension of the City of Fontana and should be supported. Mr. Martinez shows aerial views of the annexation area depicting the I-15 Freeway and Coyote Canyon Road. He says the October staff report evaluated the boundaries, land use and environmental considerations. He highlighted the issues as follows:

**Boundaries:** In 2004 an application was submitted to LAFCO by the County proposing the formation of County Service Area (CSA) 120 to provide open space and habitat conservation services along the foothills north of the cities of Fontana and Rancho Cucamonga. The boundaries included some portions of each of those cities. Due to a number of changes within the boundaries of the district, as well as additional data that was required of the County, the proposal to form CSA 120 was taken off calendar and eventually withdrawn. He states the County is proposing to reinstate the application for CSA 120 which includes territory within the annexation boundaries of LAFCO 3056. Special Districts has sought the city's consent to the overlay of the district. He reports that the City's response indicates that they have no concerns regarding the overlay of the three parcels, but the City wishes to reserve its right to support the overlay of the entire annexation area until such time as the formation application is submitted to LAFCO. Mr. Martinez indicates that staff's position is that the annexation proposal should move forward without an official commitment to the consent to the overlay since, to date, LAFCO has not received an application to form CSA 120. Mr. Martinez states that once the formation proposal for CSA 120 is officially filed with LAFCO, staff will then request, as is required by law, the consent of the Cities of Fontana and Rancho Cucamonga to the overlay of the district within the boundaries of both cities.

**Land Use:** The October staff report states, with regard to land use, that pre-annexation

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agreements are proposed between two property owners and the City regarding the land uses allowed on the properties following annexation. Mr. Martinez states that Mr. Merl Landmesser, on behalf of the Landmesser family trust, requested the City's concurrence regarding the number of animals allowed on their property, in particular, the number of horses permitted. Mr. Martinez explains the City responded in support to allow the maximum number of horses permitted on the parcels based on the existing County's land use designations. LAFCO staff has included a finding identifying the City's agreement with Mr. Landmesser and the Landmesser family trust in the draft resolution of approval. Mr. Martinez states that the other property owner, Mr. Gary Simpson, has been negotiating a preannexation agreement with the City since the application was filed with LAFCO. Mr. Martinez states that as of this date, the agreement has not been finalized, as the City has some concerns with regards to the terms of the proposed agreement. He states, in order to address this concern, the Commission had two options: 1) acknowledge the proposed agreement with Mr. Simpson as a finding of Commission approval, indicating that if both parties have not finalized the agreement by the time the Certificate of Completion is issued, the agreement will be deemed null and void; or 2) the Commission can continue the proposal to allow sufficient time complete the negotiations on the agreement. He continues it was, and is, staff's recommendation that the Commission choose the first option. Mr. Martinez states that the City of Fontana has submitted a letter requesting the Commission approve LAFCO 3056 as recommended by LAFCO staff and outlining its opposition to continue the item any further. Mr. Martinez states staff was informed today that another pre-annexation agreement is being processed with another property owner, Mr. Stubblefield. He notes that the City has indicated it will submit a letter in the next few days outlining this agreement. LAFCO staff is proposing that this agreement also be acknowledged as a finding and if the signed agreement is not received by the City prior to the issuance of the Certificate of Completion it will be deemed null and void.

**Service Issues:** Mr. Martinez states that with regard to service issues, it is the position of LAFCO staff that LAFCO 3056 is a straightforward and logical extension of service delivery by the City of Fontana. Of note is the fact that the area is generally within the service area of the West Valley Water District except for the portion on the westerly side which is within the area of Fontana Water Company, a private water company regulated by the PUC. He states no change will occur to these two service providers as a result of this annexation.

Finally, Mr. Martinez reports that the staff report outlines an issue regarding the number of registered voters in the area raised by Mr. Gary Simpson. Mr. Martinez notes that the determination of inhabited versus uninhabited is required for processing the protest procedures. He states that if deemed legally inhabited (12 or more registered voters), the registered voters would decide the fate of the proposal; if uninhabited (less than 12 registered voters), it is the landowners' who decide. The staff report provides an outline of the process. Mr. Martinez states that LAFCO staff reaffirms its determination that LAFCO 3056 is legally uninhabited. He continues, since the area is legally uninhabited, there are a number of publicly owned lands within the annexation area which are exempt from taxation and do not have an assessed value assigned. Pursuant to the provisions of Section 56126 of the Government Code, staff requested the County Assessor's Office to assign land values to these parcels for protest purposes only. These parcels and their assigned values are outlined in the staff report.

Mr. Martinez concludes that it is the position of LAFCO staff that this annexation is a logical and reasonable extension of the City of Fontana and should be supported. Staff recommends that the Commission approve LAFCO 3056 by taking the following action on pages 1 and 2 of the staff report: (1). Take the following actions with respect to environmental review: a) Certify that the Final Environmental Impact Report (FEIR) (State Clearinghouse No. 2003031083) and

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Addendum to the FEIR (Fontana Development Code Update) adopted by the City of Fontana for the Fontana General Plan Update and pre-zoning of its sphere of influence have been independently reviewed and considered by the Commission, its staff, and the Commission's Environmental Consultant; b) Determine that the FEIR and the Addendum to the FEIR are adequate for the Commission's use, as a CEQA Responsible Agency, for its consideration of LAFCO 3056; c) Determine that the Commission does not intend to adopt alternatives or mitigation measures for the project; that the mitigation measures identified in the City's environmental documents are the responsibility of the City and others, not the Commission; d) Adopt the Findings of Fact and Statement of Overriding Considerations as presented by the Commission's Environmental Consultant; and, e) Direct the Clerk to file a Notice of Determination within five (5) days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as Lead Agency, has paid said fees; (2.) Approve LAFCO 3056 including the standard conditions of approval related to indemnification of legal costs and including the findings to: a) Acknowledge that an agreement between the City and property owner, Merl Landmesser and Landmesser Family Trust, has been reviewed and approved by the City that specifically outlines the number of horses allowed on Assessor Parcel Numbers (APNs) 0226-074-17, 18, 19 and 0226-075-21 and 22, the landowner's parcels within the annexation area; b) Acknowledge that a Pre-Annexation Agreement is currently being finalized between the City and a property owner, Gary Simpson, for APNs 0226-074-09, 22, and 23, the landowner's parcels within the annexation area, addressing land uses and standards to be applied upon annexation of the properties. The Pre-Annexation will need to be finalized prior to the issuance of the Certificate of Completion approving the annexation by both the City and Mr. Simpson, otherwise the agreement will be deemed null and void; and c) Acknowledge that an agreement between the City and property owner, Arnold Stubblefield, for APN 0226-074-21, the landowner's parcel within the annexation area, addressing land uses and standards to be applied upon annexation of the property, otherwise the agreement will be deemed null and void; and (3) Adopt LAFCO Resolution #2984, setting forth the Commission's findings, determinations, and conditions for the proposal.

Chairman Colven asks if there are questions from the Commission. He asks how close the agreements with Messrs. Landmesser and Simpson are to being finalized. Mr. Martinez responds that LAFCO staff has received a letter which indicates that Mr. Landmesser's agreement is final; however, Mr. Simpson's agreement and the new agreement with Mr. Stubblefield have not been finalized. He says the letter with reference to Mr. Stubblefield is expected within the next few days, but the date for Mr. Simpson is unknown. He explains they have 60 days to submit the letter if the Commission approves the annexation at today's hearing.

Commissioner Sedano asks why a small area that is not part of the annexation has been excluded. Mr. Martinez explains it is the parcel boundary and the parcel cannot be split to include that area in the annexation. Commissioner Sedano asks how many acres are involved in the east side of the area. Mr. Martinez states it is 175 acres.

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

Chairman Colven opens the public hearing.

Mr. Brad Buller states he represents property owners, Gary Simpson and Arnold Stubblefield and indicates that they have asked him to attend this meeting on their behalf. He states both property owners are in support of the annexation and are working closely with the City of Fontana to reach

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agreement. Mr. Buller states Mr. Simpson and Mr. Stubblefield thank the City of Fontana and LAFCO for consideration of this matter and are hopeful to get the letters of agreement between the City and their properties. He says they have been living a lifestyle that they appreciate and the County codes allow some things that they wish to have continue. They ask that LAFCO and the City of Fontana recognize and allow that to continue.

Commissioner Pearson asks if there is a change in the number of registered voters in the last week. Mr. Martinez states the area is still legally uninhabited. Executive Officer Kathleen Rollings-McDonald explains that the law requires that the determination as to whether the area is legally inhabited or uninhabited take place at specific points in the process. That point for this proposal was at the time that the Certificate of Filing was issued on September 26, 2007. The staff report outlines some of the issues related to when the official number was designated; however, there is no change from that point forward. LAFCO staff has determined the project area to be legally uninhabited.

Commissioner McCallon moves approval of 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, Nuaimi, Pearson. Noes: None. Absent: None. Abstain: Biane, Mitzelfelt

(Commissioners Biane and Mitzelfelt return at 9:18 a.m.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3081; AND (2) LAFCO 3081 – CITY OF MONTCLAIR ANNEXATION NO. 28 (CENTRAL AVENUE/PHILLIPS BLVD.) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider an annexation to the City of Montclair. Notice of the hearing was advertised as required by law through publication in The Sun, and the Inland Valley Daily Bulletin, newspapers of general circulation in the area.. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals and agencies requesting mailed notice and individual mailed notice was provided to landowners and registered voters within and surrounding the review area, pursuant to State law and Commission policy.

Mr. Martinez states LAFCO 3081 is an annexation to the City of Montclair which was originally submitted as a 2.31 acre project located at the northwest corner of Central Avenue and Phillips Boulevard. He says the annexation was submitted to facilitate a commercial development proposed for the northern parcel processed by the City which requires a connection to the City's sewer facilities. Due to protest received from within and around the area, the City only included the parcels that supported the annexation within their application. He says that as staff reviewed the proposal, it was determined that the annexation area left a peninsula of unincorporated territory that would not provide for an effective service boundary for the City. Therefore, staff has proposed the expansion of the proposal to include the entire unincorporated island area and to process it under the special island provision outlined in Government Code Section 56375.3. The new boundary encompasses approximately 10.12 acres, generally bordered by Central Avenue on the east, Phillips Boulevard on the south, Fremont Avenue on the west, and parcel boundaries on the north. He continues, in staff's view, LAFCO 3081, as expanded, is essentially a ministerial action for the Commission as Section 56375(a) requires the Commission to approve the annexation of island of unincorporated territory initiated by resolution and Section 56375.3 requires the Commission to approve the annexation of island territory without the ability of protest if certain findings are made concerning the size of the island, the configuration of the City's boundaries, the lack of prime agricultural land within the area, the presence of development within the area, and the ability of the

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annexation area to benefit from the use of municipal services from the City. He says staff believes these mandatory findings can be easily made for LAFCO 3081 as the island does not exceed 150 acres; it is 10.12 acres and constitutes the entire island of unincorporated territory. He states the island is substantially surrounded by approximately 72 percent through a combination of the City of Montclair and the City of Chino boundaries. The annexation area is wholly within the City of Montclair's sphere of influence and is substantially developed or developing based upon the finding that public utilities are available, public improvements are within the area and there are physical improvements on many of the properties. The annexation area is not prime agricultural land, as defined by LAFCO law, and the annexation area will benefit from the annexation. He says the area is already benefiting from the direct receipt of fire service from the City through its assumption of fire service following the dissolution of the Monte Vista Fire Protection District. A parcel within the annexation area is currently receiving sewer service from the City through an out-of-agency service agreement. He continues that it is staff's determination that this proposal complies with Section 56375.4, which requires that the island be created prior to January 1, 2000. Mr. Martinez shows the boundary changes since that date; LAFCO 2969 was completed in March 2005 and LAFCO 2980 was completed in June 2005, noting that they reduced the size of an existing island. Therefore, it is the staff position, that this proposal meets this requirement. He says staff has reviewed the provisions of the Commission's additional policies regarding the processing of islands and these policies are outlined on pages 5 and 6 of the staff report. He states the island is 72 percent substantially surrounded by the City of Montclair and the City of Chino's existing boundaries, and the annexation area is not within an existing County redevelopment area; therefore, this policy does not apply. Finally, as LAFCO staff expanded the proposal and processed it as an island, LAFCO staff carried out the obligation for an outreach program in two separate noticed meetings. He says those meetings took place on September 14, 2007 and October 17, 2007 at the City of Montclair's Hearing Chambers with City staff present. He states the staff report outlines the details of the other issues related to the processing of this island, i.e., land use service issues and environmental considerations. Mr. Martinez states that since no election is possible under the island annexation provision, the City's 3.89 percent utility user's tax cannot be extended to the properties within the annexation area; therefore, staff has included a condition on this recommendation that indicates that the utility tax will not be applied to the area. Staff believes the findings required by Government Code Section 56375.3 can easily be made in this case; that the annexation complies with Section 56375.4, which requires that the island be created prior to January 1, 2000; and that the proposal complies with the Commission's additional policies related to the processing of islands. Mr. Martinez states that if the Commission concurs with these determinations, it is required to approve the proposal; waive the protest hearing, and approve the application regardless of the level of any protest.

Staff recommends that the Commission approve LAFCO 3081, as expanded, by taking the following actions: (1) Adopt the Statutory Exemption that has been recommended for this proposal, and direct the Clerk to file a Notice of Exemption within five (5) days of this action; (2) Approve LAFCO 3081 – City of Montclair Annexation No. 28, as an island annexation, as defined in Government Code Section 56375.3, with the following conditions: (a) The City of Montclair's 3.89% Utility Users Tax will not be extended to the annexation area; and (b) The standard terms and conditions of approval that include the "hold harmless" clause for potential litigation; (3) Waive protest proceedings, as required by Government Code Section 56375.3; and, (4) Adopt LAFCO Resolution #2988 setting forth the Commission's findings and determinations concerning this proposal.

Commissioner Nuaimi states the plan for service shows a deficit and does not show sales tax revenue from the commercial piece that initiated this application. He asks that it be acknowledged

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on the record that, although the plan for services analysis shows a deficit annually, it did not include sales tax revenues in the calculations. He states he would not want to set a precedent of approving deficit annexations. Mr. Martinez states the deficit is for police service and, as the surrounding area is being served this area will be served also.

Commissioner Biane asks who the developer is moving forward with the 12,000 square-foot retail center. Mr. Steve Lustro, City Planner, states the developer is an individual named Dr. Phillip Chang. Commissioner Biane states this does not present a conflict for him and he will vote on the proposal. Commissioner Williams asks if there was attendance at the community meetings. Mr. Martinez reports there was some attendance at the first meeting and no attendance at the second meeting. Commissioner Sedano compliments Mr. Lustro and the City of Montclair staff and states the City of Montclair consistently presents well-prepared proposals.

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

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

**CONTINUED FROM OCTOBER 24, 2007 HEARING - CONSIDERATION OF MUNICIPAL SERVICE REVIEW FOR COUNTY-GOVERNED FIRE AGENCIES AND LAFCO 3001 – SPHERE OF INFLUENCE EXPANSION FOR THE YUCCA VALLEY FIRE PROTECTION DISTRICT AND REDUCTION OF THE SPHERES OF INFLUENCE FOR THE CENTRAL VALLEY FIRE PROTECTION DISTRICT, LAKE ARROWHEAD FIRE PROTECTION DISTRICT, FOREST FALLS FIRE PROTECTION DISTRICT AND COUNTY SERVICE AREA 38 – APPROVE STAFF RECOMMENDATION**

**CONTINUED FROM OCTOBER 24, 2007 HEARING - CONSIDERATION OF LAFCO 3000 – REORGANIZATION TO INCLUDE ANNEXATIONS TO THE YUCCA VALLEY FIRE PROTECTION DISTRICT, RENAMING THE EXPANDED AGENCY THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, DISSOLUTION OF THE CENTRAL VALLEY FIRE PROTECTION DISTRICT, FOREST FALLS FIRE PROTECTION DISTRICT, LAKE ARROWHEAD FIRE PROTECTION DISTRICT, COUNTY SERVICE AREA 38 AND ITS VARIOUS IMPROVEMENT ZONES, COUNTY SERVICE AREA 70 IMPROVEMENT ZONES FP-1, FP-5 AND PM-1, REMOVAL OF FIRE PROTECTION, AMBULANCE, AND/OR DISASTER PREPAREDNESS POWERS FROM COUNTY SERVICE AREAS AND THEIR IMPROVEMENT ZONES AND TRANSFERRING THAT AUTHORITY TO THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT, AND ESTABLISHMENT OF SERVICE ZONES WITHIN THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AS FOLLOWS: VALLEY SERVICE ZONE, MOUNTAIN SERVICE ZONE, NORTH DESERT SERVICE ZONE, SOUTH DESERT SERVICE ZONE, SERVICE ZONE FP-1 (RED MOUNTAIN), SERVICE ZONE FP-2 (WINDY ACRES), SERVICE ZONE FP-3 (EL MIRAGE), SERVICE ZONE FP-4 (WONDER VALLEY), SERVICE ZONE FP-5 (HELENDALE), SERVICE ZONE PM-1 (LAKE ARROWHEAD PARAMEDIC), SERVICE ZONE PM-2 (HIGHLAND PARAMEDIC) AND SERVICE ZONE PM-3 (YUCAIPA PARAMEDIC) (KNOWN AS THE “COUNTY FIRE REORGANIZATION”) – APPROVE STAFF RECOMMENDATION**

**CONTINUED FROM OCTOBER 24, 2007 HEARING - CONSIDERATION OF LAFCO 3000A – REORGANIZATION TO INCLUDE DETACHMENTS FROM CENTRAL VALLEY FIRE**

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**PROTECTION DISTRICT, RENAME THE REDUCED DISTRICT THE FONTANA FIRE PROTECTION DISTRICT, AND ESTABLISH AS A SUBSIDIARY DISTRICT OF THE CITY OF FONTANA (KNOWN AS THE “CITY OF FONTANA ALTERNATIVE”) – APPROVE STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider LAFCO 3001, and LAFCO 3000, and LAFCO 3000A, as described above, identified as the County Fire Reorganization and City of Fontana Alternative. Notice of the original hearing was advertised as required by law through publication in The Sun, Desert Dispatch, Inland Valley Daily Bulletin, Hi-Desert Star, Big Bear Life & Grizzly, Fontana Herald News, Crestline Courier, Mountain News, Parker Pioneer, Needles Desert Star, and Alpenhorn News, newspapers of general circulation in the area, through an 1/8<sup>th</sup> page ad in-lieu of individual notice to landowners and registered voters. Individual mailed notice was provided to affected and interested agencies, County departments, and those individuals and agencies requesting mailed notice pursuant to State law and Commission policy.

Kathleen Rollings-McDonald, Executive Officer, states this matter was continued from the September 2007 to the October 2007 hearing, at which time it was again continued due to the wildfires in the area that day. She says LAFCO 3000, 3000A and 3001 are the most major considerations presented to this Commission in its 40-plus-year history. The territory to be annexed is roughly the size of the combined area of the states of New Jersey, Rhode Island and Delaware combined and serves in excess of 600,000 people. Ms. McDonald states that at the September hearing, the Commission resolved some issues related the processing of this application, including the issue of the environmental determination when the Commission adopted its negative declaration related to these three proposals. She says issues regarding land use were resolved in that these proposals have no direct effect on land use designations. She states today's discussion will include issues of boundaries – do the boundaries represent a division which makes sense from a service perspective and are they recognizable, easily definable and definite, and do they promote efficient and effective service delivery? The Commission will make general determinations at today's hearing regarding financial and service considerations for this proposal; such as will the approval of this reorganization impair the ability of any other agency to continue to provide its range of services; can the successor district or its service zones continue to provide the level of service which existed prior to the change; does the reorganization represent the best available service option to those affected communities and does it provide for a more effective, efficient and accountable form of government?

**Boundaries:** Ms. McDonald states the Commission made a determination at the prior hearing to modify the boundary of Service Zone PM-1 in the Lake Arrowhead Paramedic area, to exclude the area within the existing Crest Forest Fire Protection District. No further discussion and no change is being recommended to that determination Ms. McDonald states that the boundary discussion was continued related to the City of Fontana's alternative proposal, referred to as LAFCO 3000A. She says the City's proposal was to detach 10 separate areas from the existing Central Valley Fire Protection District, shown on the overhead display map and the staff report, and through that detachment, have these areas served by the San Bernardino County Fire Protection District. The areas include the communities of Muscoy, Bloomington, and the Villages at Lytle Creek or Rosena Ranch. A part of this proposal is to rename the retained Central Valley Fire Protection District the Fontana Fire Protection District and establish it as a subsidiary district of the City of Fontana. Ms. McDonald notes that a subsidiary district is an independent Special District operating under fire protection district law, with the City Council serving as its ex officio Board of Directors.

She continues, at the September hearing the Commission, specifically members of the County

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Board of Supervisors, and County staff, asked for additional information regarding options related to this portion of the consideration. Most importantly, was there potential for a mechanism to provide representation for the unincorporated areas within the City of Fontana's sphere of influence to have representation on this Fire Board. Questions raised included whether it would be possible to shift the boundary to just the corporate boundaries of the City of Fontana and leave the unincorporated areas within the San Bernardino County Fire Protection District; or could there be some alternative that would be acceptable to the City of Fontana regarding assumption of these services? At the September hearing, it was requested that several of the staff's recommendations be reviewed with the full complement of the Board of Supervisors; therefore, the matter was continued. A workshop session was held with the Board of Supervisors on October 16, 2007 where these options were reviewed and discussed along with a discussion of the overall reorganization and staff's recommendation to address these issues. She states discussion related to Option One was that there is no ability to have an additional representation on the Board of Directors for the Fontana Fire Protection District; the subsidiary district is specific in that the Board of Directors shall be the City Council. There was discussion regarding the potential for an advisory commission made up of representatives of both the city and the unincorporated area; however, there was no interest in moving forward with that option. In reference to Option Two, reducing the boundaries of the Fontana Fire Protection District to just the corporate boundaries of the City of Fontana, the remaining unincorporated areas within the City of Fontana sphere have two fire stations and a potential third, do not have sufficient revenue generated from the unincorporated area to support those operations, so they would be a drain on the overall Valley Service Zone of the SBCFPD. This option was not pursued further through discussion with the County Board of Supervisors. She says Option Three was discussed at length, with reference to the imposition of a condition for moving forward with the establishment of the Fontana Fire Protection District as a subsidiary district, representing the City of Fontana sphere of influence. In staff's opinion, those discussions were related to three specific issues: 1) that service levels be retained for Stations 72 and 73 currently serving the unincorporated portion; 2) that they be maintained at not less than the current service level, and 3) that they will remain consistent with that service level as long as they continue to serve unincorporated areas. These are the determinations made at the Board workshop.

She states discussion was held regarding Station 76 within the Bloomington community which serves portions of the City of Fontana proposed to be a part of the Fontana Fire Protection District. She says there was discussion regarding maintenance of the service level from that fire station once it becomes part of the Valley Service Zone. There was agreement and discussion at the Board workshop that the SBCFPD will provide a level of service from Station 76 that is not less than the current service level to support the Fontana Fire Protection District.

Ms. McDonald explains that the major issue was Station 80 which is proposed to be constructed for service to the industrial portions of the San Sevaire Redevelopment Area and has been in discussion since 2002-03. The County Board of Supervisors proposed as a condition of approval, that the City of Fontana be required through the auspices of the Fontana Fire Protection District, to build Station 80, build it from funds associated with the Fontana Fire Protection District, and to man it within a three-year period.

She says that, following the October 16 workshop, LAFCO staff convened a meeting with representatives of the City of Fontana, County Fire, County Administrative Office staff and LAFCO staff, to discuss these issues and the recommendations from the County Board of Supervisors. LAFCO staff conveyed its one concern regarding Condition No. 1 relating to the language that the service levels be retained at the existing service level. LAFCO staff wished to provide more flexibility to allow for the possibility of augmenting service levels. She states staff is proposing a

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modification to the language of Condition No. 1 to require that service levels for Station 72 and 73 be maintained as consistent throughout the Fontana Fire Protection District. Ms. McDonald notes that the City of Fontana submitted a letter expressing its concerns about the conditions proposed to be imposed upon its subsidiary district status relating to Station No. 80. There were questions regarding financing that station, its construction costs and the continuing effort to fund supplemental fire protection through the Community Facilities District created by the County known as Community Facilities District 2002-2 (CFD 2002-2). She explains that CFD 2002-2 was created in order to provide augmented fire protection funding for this portion of the San Sevaire Redevelopment Area in the general area of the Kaiser Specific Plan. She says the City's letter identified its concern related to its main priority in rebuilding Station 71 in the central core of the City of Fontana, since it is the most active station in the valley portion of the current County Fire operation. Ms. McDonald notes that County Administrative staff has provided additional information regarding Station 80, included in today's staff report, which identifies the current estimated cost for construction of Station 80 at \$6 million with a \$500,000 contingency, \$800,000 of which has already been funded and expended, leaving a balance of \$5.2 million. She says the County has identified a financing source which includes the existing Central Valley Fire Protection District Capital Improvement Program set-asides for Station 80 at \$2.99 million. There is proposed in this year's budget a transfer of \$800,000 to that fund for the construction of Station 80, leaving a balance of \$1.4 million which could be funded through the Capital Placement Reserve to be transferred to the Central Valley Fire Protection District as a part of the overall reorganization. She says that fund was anticipated based upon 2007-2008 figures at \$2.4 million. A discussion relating to equipping the station and funding its initial operations is provided in today's staff report. County Fire has indicated that \$160,000 is required to equip the station and that a fire engine was purchased with RDA funds to be used at this facility, and that there is a fire squad with medic that would be transferred from another Central Valley fire station to serve in at this station. Ms. McDonald indicates that County Fire has stated that it is ready to proceed to bid for the Station 80 project and it is anticipated that the request for bids will go out the first part of December and construction could start within this fiscal year. Following review with all parties, it appears that consensus was reached for the potential for contractual arrangements between the County and the City of Fontana regarding construction of Station 80 and there was consensus to move forward with contracting with the County to continue to construct Station 80 through County staff resources. Ms. McDonald states that as of the date of this report, LAFCO staff has not resolved the issue of CFD 2002-2 to secure agreement through the County that they will continue to apply the condition through the land use approval process that requires annexation to the CFD following its transfer to the Fontana Fire Protection District for future administration. This must be resolved before the hearing adopting the resolution, as there is a \$565 per acre charge to be applied to new developments to help offset the actual cost of fire protection services to be provided. She says it appears to LAFCO staff that the conditions that were requested by the County, with a minor modification in language, has been agreed to by all parties, the City of Fontana, the County and LAFCO staff. LAFCO staff has modified its recommendation to include these additional conditions.

She states staff recommends the Commission authorize modification of the boundaries to include LAFCO 3000A as a part of this County fire reorganization which includes the 10 detachments, transferring those territories to the San Bernardino County Fire Protection District, that the remaining Central Valley Fire Protection District be renamed the Fontana Fire Protection District as a subsidiary district of the City of Fontana, with the conditions that the City of Fontana will contract for the continuing construction of Station 80, and that said contract shall be signed prior to the issuance of the Certificate of Completion for this reorganization and that the County be required to continue to impose this land use condition of approval for funding of the CFD. She continues, at the January hearing, a map showing the specific area will be presented.

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Ms. McDonald states that the original staff recommendation was that the existing County General Fund contribution to County Fire be made permanent and that the \$8.3 million currently proposed for transfer in Fiscal Year 2007-2008 be made permanent through a Revenue and Taxation Code 99.02 transfer process. She says that at the October 16 Board of Supervisors workshop, it was indicated that the Board of Supervisors does not support the permanent transfer of this level of funding and that they oppose it vehemently. The Board indicated its position that they do not wish to have their hands tied regarding future funding of this service and made statements that they will continue to provide this level of service as the reorganization moves forward to evaluate service levels in each of the service zones, that it evaluate the actual cost for providing those services to be discussed with the electorate in each of the service zones. LAFCO staff has evaluated the positions taken; while staff believes that in order to continue and sustain the current level of service the \$8.3 million transfer is required, it is staff's opinion that to require this as a condition will make the final approval of this proposal dubious. Control of the Section 99.02 property tax transfer process rests solely with the County Board of Supervisors and there is no way to compel or require it to be completed. She says that the Board of Supervisors has historically, and at the October 16 workshop session, conveyed its position that it will continue to fund fire protection services for the County Fire Protection District that it will govern in the future while it evaluates other options. She states that the position taken by the County Board speaks to the overall process that was begun through this County Fire reorganization and is one of incremental steps to address the issue of fire protection for this County. In staff's opinion, the first step and most important is clarification of responsibility and jurisdictional boundaries and LAFCO staff believes this proposal will provide for that. Ms. McDonald states it is most important that the responsibility and revenue stream be clarified for this very vital service to not only the residents of San Bernardino County, but to those that travel through it. Therefore, LAFCO staff is recommending removal of the requirement to make permanent the \$8.3 million from the Commission's consideration for approval of this project. She states there will be a process to review service levels with the constituents in the service zones. The County Board of Supervisors indicated at the October 16 meeting, that there will be Fire Advisory Commissions within each service zone to review the potential service levels and funding sources, and that their appointment will carry with it a stipend for their service to make it less of a burden and allow for a broader participation of the constituents in each of the service zones.

Ms. McDonald states LAFCO staff recommendation acknowledges this change in position and this removes one of the primary concerns expressed by the County Administrative Office staff and County Board of Supervisors to the overall reorganization. In addition, there was discussion regarding the distribution of County Service Area 38 revenues. CSA 38 is the only entity within the Fire Reorganization which receives funding from within the various service zones to be created. She says there was discussion relating to apportioning the revenue to each of the service zones and the Board of Supervisors indicated its preference that the revenues be distributed at the point of generation, which is reflected in the staff report on page 11. This is designed to resolve the tax rate area distributions and property tax shares for County Service Area 38 throughout the overall reorganization. She states that an additional issue is the distribution of multi-function districts and the removal of fire powers and their transfer of funding. She shows the proposed recommended split between the existing entities with multiple functions, CSA20, CSA29, CSA30, etc. A correction to the September presentation is shown detailing the changes related to the Phelan-Piñon Hills CSD Formation which illustrates the recommended split at 72 percent to be apportioned to Fire and 28 percent to be apportioned to the Phelan-Piñon Hills CSD upon its formation for park and recreation purposes.

With reference to CSA 70 and the transfer of Fire Administration revenues to the umbrella agency,

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Ms. McDonald states the transfer is very clear for all areas currently affected by the County Fire reorganization; however, there are portions of unincorporated territory within existing independent fire providers that pay into the CSA 70 for fire administration. In order to transfer the revenues to the umbrella agency, a two-step process is required. The revenues generated for CSA 70 within the independent fire providers is about \$1.6 million. She explains that the modification of the proposal to create the Fontana Fire Protection District requires inclusion of the unincorporated area within the existing Central Valley Fire Protection District, and that amount is \$63,000. The process is simple for areas currently within the overall reorganization of LAFCO 3000; however, the process for the areas unaffected by the overall change within the independent fire providers is more complicated. She says it will require a process under Section 99.02 of the Revenue and Taxation Code requiring shifts of tax rate area revenues to accommodate this change, so that all revenues derived for fire administration are directly transferred to the San Bernardino County Fire Protection District by the County Auditor-Controller.

She continues, an issue of major concern is the understanding of how small an area can be taxed for fire suppression services. She shows a map identifying the federal and state owned lands within the County. The bulk of those areas are not taxed and there will be no revenues received from those areas.

The staff report modifies and corrects the charts for the umbrella agency and the primary service zones for their revenues, identifying the San Bernardino County Fire Protection District's services and 2006/2007 revenues and apportionments. She shows a map of the Valley Service Zone excluding the Fontana Fire Protection District with corrected revenues and apportionments based on 2006/2007 for that area. She shows a map showing the percentages of property tax revenues for fire suppression excluding CSA 70 revenues and explains that there are two areas currently within the Valley Service Zone that are not within any fire protection provider currently. She shows a map of the Fontana Fire Protection District and states LAFCO modified the information to exclude the \$2.8 million that had been included as RDA funding. Pursuant to direction from the County, those funds are being redirected. She shows a map of the Mountain Service Zone and states the only area to be modified relates to CSA 70 PM-1, a special tax improvement zone for paramedic service in Lake Arrowhead. She states the Commission discussed in September that a portion of this area is part of the Crest Forest Fire Protection District and they will receive those revenues. She says this shows the percentage of the general ad valorem property tax that is paid toward fire suppression within the service zones. She shows a map of the North Desert Service Zone and shows how much each portion of that area generates in revenue. She points out that the Trona area pays no revenue toward fire suppression. They are either publicly owned or are not a part of an existing fire suppression entity. She shows a map of the South Desert Service Zone which shows that there is a vast area which pays no revenue toward fire suppression.

She refers to a discussion held between City of Fontana, County Administrative Office and County Fire personnel related to the effective date for the overall reorganization. She states it is recommended that the final resolution be adopted in January 2008 which would set in motion a 30-day reconsideration period followed by a staff recommended 30-day protest period. This process will not be completed until March 2008. She says that in discussion with the County and City staffs, there is consensus that the Commission, as a condition of approval, establish the effective date of the reorganization as July 1, 2008, to allow for an easy and clear transition of service. The Certificate of Completion will be issued in March with the effective date of July 1, 2008, and the City can work toward establishing its budget in conjunction with County Fire and County Fire can move forward and complete the full year, closing its books on June 30, as it normally does. LAFCO staff is not aware of any concern related to this proposed effective date and believes that this will provide

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the best possible transition for all of the entities.

If the Commission adopts staff's recommendation, several elements will be finalized and presented at the January hearing, including the transfer of facility assets, transfer of employees and contracts, and establishment of appropriation limits, not only for the County Fire Protection District and its service zones, but also for the multi-function districts, losing powers and revenues.

Ms. McDonald concludes, stating that at the September hearing the Commission continued LAFCO 3001, the municipal service review and sphere of influence update. Staff recommends the Commission take the following actions:

- receive and file the municipal service review and approve the expansion of the sphere of influence for the Yucca Valley Fire Protection District, to include the unincorporated territory of the County not currently a part of an independent fire provider or city providing fire service, and to exclude the City of Fontana and its existing sphere of influence from this sphere expansion related to the Central Valley Fire Protection District;
- determine that the overlay of the Yucca Valley Fire Protection District sphere of influence over the sphere of influence of existing independent fire providers will not affect or inhibit the ability of those entities to move forward with their sphere planning and the potential annexation in the future of their sphere areas;
- approve the reduction to a zero sphere of influence for County Service Area 38, Lake Arrowhead Fire Protection District and Forest Falls Fire Protection District, indicating the Commission's determination that they should be dissolved and their services consolidated with another;
- approve the reduction of the Central Valley Fire Protection sphere of influence to be coterminous with the existing City of Fontana sphere of influence;
- determine that the services to be provided by the San Bernardino County Fire Protection District and listed in Exhibit "A" of the Special Districts policies and procedures, be as identified in the staff report and on the screen;
- determine that upon the successful completion of LAFCO 3000, which includes the dissolution of CSA38, Lake Arrowhead Fire and Forest Falls Fire be removed from Exhibit "A" of the policy and procedure manual related to Special Districts; and
- continue adoption of the LAFCO resolution reflecting these determinations to the consent calendar at the January 16, 2008 hearing.

Ms. McDonald states that for LAFCO 3000, staff recommends the Commission take the following actions:

- modify LAFCO 3000 to include the City of Fontana alternative, which includes the 10 detachments from Central Valley;
- establish the retained Central Valley Fire District as a subsidiary district of the City of Fontana, changing the name to the Fontana Fire Protection District;
- apply the following terms and conditions:
  - the effective date of the proposal shall be July 1, 2008, upon successful completion of the proposal;
  - the transfer of CSA 70 ad valorem property tax revenues to the San Bernardino County Fire Protection District through a property tax exchange process be undertaken pursuant to Revenue and Taxation Code Section 99.02;
  - the apportionment of CSA 38 revenues be determined to be based upon the historic collection point and those be transferred to the respective service zones;
  - the Commission direct LAFCO staff to prepare the appropriation limit determinations for the parent district, the San Bernardino Fire Protection District, the appropriate

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- service zones and any other entities involved in this proposal;
  - service levels for Stations 72 and 73 cannot be reduced by the governing body of the Fontana Fire Protection District unless the service levels of all stations within the Fontana Fire Protection District are reduced;
  - the Fontana Fire Protection District will be required to staff and man Station 80 within the San Sevaire Redevelopment Area;
  - the construction of Station 80 should take place within three years with the cost of construction funded through the Fontana Fire Protection District;
  - service levels of Station 76 retained by the San Bernardino County Fire Protection District shall be maintained at existing service levels in support of the Fontana Fire Protection District;
  - all existing employees and employment contracts currently in effect held in the name of CSA 70, County Fire or San Bernardino County Consolidated Fire Protection District shall transfer to the San Bernardino County Fire Protection District;
- the Commission continue the consideration of this proposal to the January 16, 2008 hearing and directs staff to present at that time all of the final determinations required of the Commission to approve the proposed reorganization and a draft resolution identifying the items listed and any others required for this proposal.

Ms. McDonald officially acknowledges and thanks the San Bernardino County Administrative staff, County Fire staff, Board of Supervisors staff and everyone involved in this proposal for their assistance in moving this reorganization forward. It has been a very difficult and labor-intensive process.

Commissioner Biane commends LAFCO staff, City of Fontana staff and elected officials for the amount of work involved in this proposal. He states, speaking for the City of Fontana and the Board of Supervisors, the bottom line is that this will improve the level of fire service in the county. For that reason Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Nuaimi.

Chairman Colven asks if there are comments by the Commission. Commissioner Nuaimi states he wishes to thank all staff involved and echoes Commissioner Biane's comments and emphasizes that this is about local control and allowing local communities to govern the level of service and insure the quality of service. He asks Ms. McDonald for clarification on the issue of construction of Station 80 and asks if the City of Fontana is entering into the construction contracts or is the County going to do the RFP and construction. Ms. McDonald states that during the process of construction there will be a transition of service. In order to make sure there is no confusion or complication, LAFCO staff recommends that the City of Fontana as the governing body, enter into a contractual relationship with the County in order to move forward with construction of Station 80 using County resources through the entire process, so there is no handoff of construction review or processing in the midst of construction. Commissioner Biane adds that the Board of Supervisors has not yet acted, but he believes the issue can be worked out between the City and the County.

Commissioner Nuaimi states that the series of slides showing the taxation rates was very telling because it illustrated how little property is contributing to a very large service area. This helps greatly in understanding the County's challenge in trying to determine the best way to manage the situation. He states that he understands the County Board of Supervisors' position in not wanting to be tied to a dollar value because hopefully there will be operational efficiencies that will result. He believes this will lead into a more efficient delivery of services. He commends Ms. McDonald for her

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efforts in bringing this issue to resolution.

Commissioner Hansberger also commends staff and states Ms. McDonald, Mr. Kanold and Mr. Alsop have been working on this effort since about 1996.

Commissioner Cox states she understands LAFCO staff's concern about the \$8.3 million General Fund revenues, but supports the Board of Supervisors' position. She does, however, hope that future Boards of Supervisors have the same level of commitment to public safety as the current Board.

Chairman Colven asks if there are any comments from the public. Ken Hunt, Fontana City Manager, states this has been a labor of love with the intention of working with the County, LAFCO staff and others, to find a way to enhance fire services. He states the issue of fire services has never been questioned and has been viewed from the perspective of committed people who want to provide good fire services throughout the County. He states he wishes to clarify one issue, in reference to Fire Station 80, it is the City's intention to contract with the County because they have already started the process. He states the staff report includes a letter from Norm Kanold dated November 7, 2007, which outlines funding and includes a transfer from CSA70 to cover the cost of the station. He says that while that is not a condition, it is a significant issue to make sure the funding is available and that the fire station ultimately gets built. For the record, he states the City is relying on that funding source from the County to get Station 80 built and open within three years.

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

**PENDING LEGISLATION REPORT**

Ms. McDonald reports that she and Norm Kanold, Assistant County Administrative Officer, are participating on the County Service Area Law rewrite being conducted by the Senate Local Government Committee. Another meeting will be held on December 7 in Sacramento to review draft changes. She says the Senate Local Government Committee consultant has proposed several changes including clarification of the status of the agencies and their direct relationship to the County Board of Supervisors. Resolution to a number of questions on process are proposed, as well as clarification on the powers authorized to be provided and established as extended miscellaneous services of the County. A draft CSA law is currently being reviewed by the participants and will be discussed at the December 7 meeting. The results of those meetings will be shared with the Commission for review.

(Commissioner Hansberger leaves the hearing at 10:25 a.m.)

**CONSIDERATION OF ADOPTION OF POLICY RELATED TO IMPLEMENTATION OF  
CAMPAIGN DISCLOSURE REQUIREMENTS PURSUANT TO AB 745 (SILVA) – APPROVE  
STAFF RECOMMENDATION**

LAFCO conducts a public hearing to consider adoption of policy related to implementation of campaign disclosure requirements pursuant to AB 745 (Silva).

Notice of the hearing was advertised as required by law through publication in The Sun, a newspaper of general circulation in the area pursuant to State law and Commission policy.

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Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Ms. McDonald states a CALAFCO committee, including Mr. Alsop as CALAFCO Legal Counsel, reviewed and provided a draft implementation policy for the new provisions. The new provisions refer to questions that were raised by the San Fernando Valley Secession Movement and an annexation in Orange County where opposition to proposals mounted a significant campaign, but because there was no election date established for either, there was no requirement for them to disclose the contributors to the campaign. Therefore, there was no way to know who was funding these efforts. In the case of Orange County, it was suspected that it was the County Sheriff's Association to preclude the annexation of a fairly substantial residential population to an adjoining city. This piece of legislation clarifies that for the petitioning process for initiating an application to LAFCO or for the conducting authority process, disclosure of campaign contributions is required. LAFCO staff's recommendation is to take the most conservative approach to implementing the policy. She explains this is a new requirement for LAFCO and is typically a Fair Political Practices Commission (FPPC) and Registrar of Voters responsibility, and the CALAFCO Legislative Committee voted unanimously to seek legislation next year to transfer the requirement for implementing these provisions to the FPPC and Registrar, who do this on a daily basis. In order to implement this change which is effective January 1, staff has provided this policy declaration outlining the disclosure requirements, definitions of what is required to be disclosed, what the terms mean, conducting authority procedures, etc. The sunset provision of this law allows for the policy to end if the law is repealed. The Commission was provided with copies of the document including the three sections that were changed in red. LAFCO staff recommends taking the most conservative approach regarding disposable expenditures, committee names, mass mailings and filing official.

Chairman Colven asks if this obviates the \$250. Ms. McDonald states this does not relate to a financial disclosure for a commissioner, but is for financial disclosure regarding campaigns to either initiate or oppose support activities before the Commission. Mr. Alsop states it is designed to shed light on who is in favor of and who is opposed to a proposal brought before LAFCO. Commissioner Biane states this would give information on a developer who is running an independent expenditure campaign.

Commissioner Biane moves approval of the staff recommendation, seconded by Commissioner Cox.

Commissioner Nuaimi asks if LAFCO will have a duplicate process to the FPPC that will be administered by LAFCO staff. Ms. McDonald states LAFCO will have the forms and will post them on the LAFCO website. Mr. Alsop explains that this legislation was initiated in Orange County and the general consensus is that this does not belong with LAFCO; it belongs with the FPPC. He says this is an attempt to bridge the gap until it can be turned over to the FPPC.

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

**EXECUTIVE OFFICER'S REPORT**

Ms. McDonald asks for authorization to contract with the Commission's Human Resources consultant to conduct her annual evaluation to be presented to the Commission in January. It was

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HEARING OF NOVEMBER 28, 2007**

the consensus of the Commission to approve a contract with the Commission's Human Resources consultant.

Ms. McDonald states the January hearing will include the finalization of the County Fire Reorganization, and opening of the Municipal Service Review/Sphere of Influence Update process for the community of Apple Valley. The consent calendar will include service contracts, the audit report and other items.

Ms. McDonald states the Commission will not meet in December. The next LAFCO Commission hearing will be on January 16, 2008.

**COMMISSIONER COMMENTS**

Tony Sedano states that on September 16, 1998, he was appointed to this Commission and he is very grateful for that. He says that his home is now in escrow and is expected to close around December 17, 2007, at which time he will be moving to Laughlin, Nevada. He adds that if the escrow does not close, he will submit his application for reappointment next May. He commends the Commission and states he feels very privileged to be a part of this group of very fine minds.

Commissioner Nuaimi states he would like to invite Mr. Sedano back in order to formally recognize his service to LAFCO.

**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:**

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

**LOCAL AGENCY FORMATION COMMISSION**

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**ROBERT W. COLVEN, Chairman**