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COMMISSIONERS

*CITY*  
Maria Nava-Froelich, Vice Chair  
*CITY*  
Jason Jackson  
*COUNTY*  
Michael Kelley  
*COUNTY*  
Raymond "Ray" Castillo  
*PUBLIC*  
David H. West, Chairman



ALTERNATES

*CITY*  
Jim Predmore  
*COUNTY*  
Luis Plancarte  
*PUBLIC*  
Ralph Menvielle  
  
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EXECUTIVE OFFICER  
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL  
Ryan D. Childers

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ACTION MINUTES OF THE REGULAR LAFCO HEARING  
May 25, 2017  
8:30 a.m.  
El Centro City Council Chambers  
1275 Main Street, El Centro, CA

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**VOTING COMMISSIONERS PRESENT:** David West, Chairman  
Maria Nava-Froelich, Vice Chair  
Jason Jackson  
Michael Kelley  
Ray Castillo

**ALTERNATE COMMISSIONERS PRESENT:**

**ABSENT:** None

**STAFF PRESENT:** Jurg Heuberger, Executive Officer  
Julie Carter, Accountant  
Paula Graf, Clerk  
  
Ryan Childers, Legal Counsel

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**REGULAR SESSION OF THE LAFCO CALLED TO ORDER AT 8:30 A.M.**

**Necessity Item Added to the Agenda**

Legal Counsel Mr. Ryan Childers stated there is an item of necessity that staff have requested be considered for an addition to the agenda. Staff was made aware of new information after the posting of the agenda regarding the Niland Sanitary District. The Niland Sanitary District was scheduled for a Prop 218 update and given the course that has taken place, this Commission needs to consider commencing the dissolution process and add to the agenda. What's required is the Commission find that this information came to the attention of staff after the posting of the agenda and that action is required. A two thirds vote is required to add to the agenda.

**Motion by Commissioner Kelley and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo and West.**

**3. Approval of Consent Items**

- A. Minutes from March 23, 2017
- B. Project Report update

**Motion by Commissioner Castillo to approve 3A and 3B and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo and West.**

**4. Public Comments**

No public comments were made.

**ANNOUNCEMENTS**

**5. A. Announcements by the Commissioners.**

Commissioner Jackson stated there is a League of Cities dinner this evening at the Eucalyptus School House in El Centro.

Commissioner Froelich stated she attended the Imperial County Transportation Commission meeting, training, and dinner. She is excited about new projects that are coming to the Imperial County. Commissioner Froelich will also be attending the League of Cities dinner.

Commissioner Castillo stated there is a City Select Committee meeting this evening and the Committee will appoint the City Commissioner position to LAFCO.

**B. Announcements by the Executive Officer**

Mr. Heuberger stated the audited financial statements for the year ending June 30, 2016 have been provided to the Commission. The annual conference is being held on October 25<sup>th</sup> – 27<sup>th</sup> in San Diego this year and staff will be in contact with the Commissioners to confirm attendance.

**DISCUSSION/ACTION/DIRECTION ITEMS**

**6. Discussion/Action/Direction regarding the Service Area Plan status update of the Seeley County Water District (SCWD 1-15)**

Mr. Heuberger stated the SCWD have hired The Holt Group to prepare a Service Area Plan/Municipal Service Review. The District have asked for additional time to submit the review. The LAFCO should expect to receive the update sometime in August.

**7. Discussion/Action/Direction regarding the Prop 218 update of the Niland Sanitary District (NSD 1-16)**

This hearing is to get direction from the Commission to commence proceedings to dissolve the District. An e-mail was sent to the Commissioners outlining the issues as Mr. Childers has explained. Conversations with BECC and the County have recently taken place to discuss the

funding to assist the District. Those funds are potentially in jeopardy of not being available in the future due to the extensions the agencies provided running out. To provide a brief history, the NSD received notice from the RWQCB and a fine for being out of compliance. The LAFCO and the various agencies met and charted a course of action that would have allowed the RWQCB fine to be reduced to a lesser amount but was contingent upon actions being taken by the NSD that included the adoption of a Proposition 218 rate increase. The District needs to show that they are a viable district once the agencies provide the funding to make the required upgrades to the plant. The County is also on board with assisting the District with a loan. The NSD conducted a Prop 218 for a rate increase which was based on a technical study that was completed by an outside firm. The vote passed to move forward with the rate increase, however the Board turned it down and voted 3-2 to not implement the increase which essentially left the District out of compliance with the RWQCB. One of the questions asked was if the Board could reconsider the vote and the legal answer was no. The District could go through the process of another Prop 218, but at the last meeting that topic was tabled. The funding agencies have already extended the terms and most likely will not grant another extension. The agencies were also asked if they could hold the funding and make available to a successor agency if the District were dissolved. It would be considered but an answer was not immediately available. Today's hearing is not to dissolve the District, but to pass a resolution to commence the process which would take a minimum of 90 days. If the funding disappears then the District could potentially become bankrupt and that would not be fair to the residents. Mr. Heuberger has had various discussions with the County CEO Mr. Ralph Cordova regarding the creation of a CSA. There is a misconception that if the District becomes a CSA then the County would take over. A CSA is a Special District and governed by the County Board of Supervisors but is separate from the County. Regardless, the problem is not going away.

County of Imperial CEO Mr. Ralph Cordova stated it's unfortunate that LAFCO must take this action today. Mr. Heuberger and Mr. Cordova have spoken on several occasions. To clarify, there are several options regarding the potential successor agency. It does not have to be the County and other options need to be explored. The LAFCO cannot force it upon a local agency, there needs to be an acceptance by the potential successor. Mr. Cordova doesn't disagree on the analysis. The District is being offered an opportunity of a lifetime and if they don't take advantage then the District could become insolvent.

NSD Legal Counsel Mr. Denis Morita stated Mr. Heuberger has laid out the history of the District well. When the Prop 218 hearing was held, there were over 100 written protests received, but less than the 50% needed to stop the rate increase. The item went before the Board and the Prop 218 rate increase was voted against by a 3-2 vote and the rate increase was not implemented. At the last meeting, the Board discussed the option of having another Prop 218, but the topic was deferred until the June 9<sup>th</sup> meeting.

Commissioner Kelley asked if the Board could change their original vote.

Mr. Morita replied the option was looked at, and from a legal standpoint problematic. The best option is to go through another Prop 218.

Mr. Heuberger stated the Prop 218 passed and the Board voted against it. Mr. Heuberger agrees that there are other options to look at regarding a successor agency. The question is if the funding will still be available.

Commissioner Kelley asked why would the Board oppose a rate increase that is necessary to exist.

Mr. Morita replied that during the Prop 218 hearing, there were a significant number of residents that stated they didn't receive a notice. There were concerns expressed about the ability of the

residents to pay the increase. The increase is needed regardless of what entity takes over if its dissolved. An increase is needed to bring the plant up to standards and meet the conditions of the RWQCB. The residents are unhappy with the way the assessments were being handled by the previous Board.

Mr. Heuberger stated he has met with several residents and the residents stated they are being incorrectly charged and the properties are not being properly assessed.

Commissioner Jackson stated the only way to move forward is to accept a rate increase. Without the increase the District cannot make the necessary upgrades.

Niland Resident Mr. Ohera stated the residents hear everyone saying a rate increase needs to be accepted. The residents have been paying double the service charge. The issues from the past are still happening now. The assessments have been incorrect since 2013 and Debbie Salas and Victor Zamorano do not want to do them correctly. The residents are losing their properties because they cannot pay and cannot afford an increase. There's a resident present today that is being charged four times the rate and a resident that lost his home.

Commissioner Kelley asked why they would be charging the resident four times the amount.

Mr. Ohera replied he has been threatened by a board member and the Board does not like when the residents speak the truth. Mr. Ohera has met with Mr. Heuberger and asked him to open an investigation because the Board is abusing their power. The residents want to pay what is right. Mr. Ohera also met with Supervisor Mr. Ryan Kelley to make a complaint and nothing was done. An investigation needs to be started.

Commissioner Jackson replied there is an option of going through the Grand Jury.

Mr. Heuberger stated the LAFCO has the authority to review the District but ultimately the option of dissolving the District or to get them in compliance. At this point the real issue is the reasons why the Board did not approve a rate increase and the reality is the District could have implemented an increase but chose not to. Without an increase the District cannot show to the agencies that they can be viable. The main question is if the funds are still available.

Commissioner Castillo stated prior to this hearing he spoke with the residents of Niland. The residents stated they are being charged double to four times the regular rate and they cannot afford to pay an increase. A proper assessment needs to be completed. Mr. Castillo would like to move forward with a dissolution but would like to make sure the assessments and rate study are being done correctly.

Mr. Ohera stated the Board is not capable of running the District. The residents need another entity to take over.

Commissioner Jackson stated if the outside agency that conducted the assessments did it based on the number of current connections and those connections are incorrect then the assessment would not be adequate.

Mr. Heuberger replied numerically the rate study was adequate but if the formula changes, the rate increase would not be adequate. The questions are if there are the correct number of connections paying and what the cost of each connection is to run the plant.

Mr. Morita stated Mr. John Van Den Berg from RCAC assisted the District in creating a policy on how to assess the parcels and how to impose the assessments. The other aspect is the sewer charges are collected on the property tax bill and there are collection issues. If the rate increase passed, the District would have until July or August to advise the County of the updated rates. Mr. Van Den Berg would be prepared to go to every parcel to conduct the assessment.

Mr. Ohera stated he's asked for a copy of the policies to run the plant but hasn't received anything. One resident was reimbursed four years from being overcharged. Another resident was being overcharged for more than twelve years.

Commissioner West stated the NSD is on the agenda today to start the dissolution process. If the Niland residents don't have sanitation, then they would not be allowed to reside there.

Mr. Ohera replied he agrees the residents need to pay. He would rather lose his home then pay three times the amount that he is supposed to pay.

NSD Board Member Ms. Lennita Ozier stated its important to explain what has happened. There are so many uncertainties and the entire town attends the NSD meetings. The Board didn't necessarily vote against the increase but voted against a 100% increase all at once. The population does not have the income to eat or afford an increase. A gradual increase would be more feasible to the residents. Residents show up to the meetings stating they are going to lose their homes and cannot feed their children. If the rate increase is approved and the residents cannot pay, then there will be more abandoned properties. The rate study is not based on the resident's income. The Board is not attempting to negate the responsibility. The Board wants to implement the resources available. The first six months of this year were spent reassessing the parcels and refunding those who were due a refund. The residents who received a refund are now back in front of the Board stating they are being billed \$2,000. She doesn't know if the County creates an automatic bill. The District needs money in reserves to comply.

Commissioner Froelich asked who conducted the assessments and the parcel mapping.

Ms. Ozier replied that Board Member Debbie Salas completed part of the assessments.

Commissioner Kelley stated the bottom line from what was stated is the residents cannot pay regardless of the outcome.

Ms. Ozier replied that she doesn't think the residents can pay for the increase.

Ms. Salas stated she completed the assessments on the first street. The operators completed the remaining of the parcel mapping. Ms. Salas approached the County asking if they had any assessors that could be of help and they could not provide a sewer assessor. Ms. Salsas attempted to locate a sewer assessor throughout the state but was unsuccessful.

Commissioner Froelich stated she heard rumors that some properties that should have been charged as double were being charged as one, possibly to favoritism.

Ms. Salas replied resident Paz was being charged as four connections. She was late on one and now pays through the monthly mortgage payment. The billing cannot be revised until the next tax assessment. All the changes throughout the year have been corrected.

Commissioner Froelich asked if all the residents that are due a refund have been paid.

Ms. Salas replied no, she was notified by legal counsel to only review three years prior.

Commissioner Castillo interpreted for resident Ms. Maria Ramirez. Ms. Ramirez stated she has been charged however the District wants to charge. She is now being assessed as two connections and the prior year as four connections. She received a refund for the past three years only. Her mortgage payment has increased by \$300 and the District only reimbursed \$1,400. She cannot afford the increase in her mortgage payment. Some residents are being assessed as zero and others are being assessed incorrectly as double or more. Every resident should pay the correct amount. The District needs to make the corrections. There are elderly residents that live on social security income and cannot afford an increase.

Ms. Salas provided the EDU assessment to the Commission. If residents feel others are receiving free services, those residents can visit the office and obtain a report. Any corrections needed will be submitted to the County.

Commissioner West stated the real issue is whether the District will have the funding to continue. If the sewer plant ceases to exist, then the residents can no longer reside in Niland.

Niland resident (name not provided) asked how will the residents be assured that this situation doesn't happen again.

Commissioner West replied that is regulated by the District. The Commission is concerned whether the District will remain in operation and if the funding will be available.

Mr. Ohera stated the reason he is present today is to speak for himself and the residents. Some residents are paying three times the regular rate. Another resident was paying sixteen times the rate over the past five years and a copy has been provided to the Commission. Since 2013 there has been a 20% increase in the rate. The residents have complained and nobody has paid attention. There are people involved in the decision making that are under the influence of the Board members and don't necessarily represent the residents. There are many issues including conflicts of interest, properties not being assessed properly or at all and some residents not paying anything. The residents do not have confidence in the billing process and need an individual who is honest to examine the records. There are public records that have been in the newspaper. In 2013 there was an article that stated 33% of the residents were not paying and family members of the Board were not being assessed. They are the ones that have humiliated the community with the abuse of power.

Commissioner Kelley replied there is a big lack of trust and the people have a foundation for concern. There isn't an equitable fair assessment on how the residents should pay. The biggest issue is the total amount of income is not sufficient to run the District. The District is at risk of losing grant money they desperately need. Actions need to be taken for the salvation of the community.

BECC representative Ms. Alejandra Nunez stated the agency administers grants from EPA. The NSD project was selected in 2012. A preliminary engineering report was developed as well as an environmental report and clearance. BECC is now at a point where they need to continue with the design. In order for BECC to continue investing, the District needs to show they can economically pay for the operations and to show they are viable. The program should have been developed and implemented within five years. It's difficult to demonstrate to the EPA that this project can be implemented. BECC has teamed up with the USDA and prepared documentation to obtain the grant approval. The funding is contingent upon a Prop 218 approval and rate increase.

Commissioner Kelley asked if there is any supplemental assistance to help the families pay for the increase.

Ms. Nunez replied no, the grants are for the development of the project from planning through design and after design a grant for construction could be provided.

Mr. Heuberger asked if the funds could potentially be available if the Commission provides a solution that would provide assurance to the agencies that we would be moving forward.

Ms. Nunez replied the grants are for design which is \$600,000. Half of the grant could be cancelled if the agency cannot show to EPA that the project is moving forward. BECC has been working on extensions for the past two years. The design grant would be difficult to maintain. BECC needs to provide a plan of action to EPA to show the project is and will move forward.

Commission Jackson stated it falls on the shoulders of the District or successor agency if it is dissolved.

Mr. Heuberger asked if the LAFCO and the County provided a letter to the agencies showing the action plan, would the agencies consider holding or providing an extension on the funds. This doesn't preclude the NSD coming up with a solution. The agencies have been helpful over the years. There's a lack of trust by the residents and five years have gone by and the agencies don't see anything being done.

Commissioner Jackson asked if the funding would be available if the District were dissolved and the LAFCO and County were working together to move forward.

Ms. Nunez Alejandra replied she would feel confident if she could provide a plan of action and solution to the EPA.

Mr. Heuberger asked if there is a target date.

Ms. Nunez Alejandra replied the quarterly meeting is during the second week of June.

Commissioner Jackson stated he would be willing to make a motion to move forward with a dissolution and to provide direction to Mr. Heuberger to work with the County and present a letter to the funding agencies.

USDA representative Mr. Luis Andrade stated the USDA funding portion of the project is 5.8 million dollars. USDA obligated 4 million dollars last year in September. The letter of conditions expires September of this year. One of the conditions for the funding is a Prop 218 rate increase. There was a thorough financial analysis of the District and for the District to apply for the program, they need to show viability. The design needs to be completed and a construction contract needs to be issued for the letter of conditions to be satisfied. A Prop 218 rate increase needs to be passed for the USDA to provide an extension. The construction portion of EPA would come after the design component is completed and they base their match on what the gap financing from the final design cost to the current funding available and the USDA will cover the remaining 50% of the design. The USDA cannot issue the funding until a construction contract is used. The County has offered a loan to cover the cost and as soon as the construction contract is issued, the USDA will reimburse the County. The funding is for the community. If the District is dissolved, the funding can be transferred to another agency to provide the services. The USDA have had numerous discussions with the community and the Board about the necessity for the District to become

sustainable. The funding from the USDA and EPA is 100% grant, and the project is covered under the grant funding.

Commissioner Kelley asked if the dissolution of the District would allow for an extension of the funding.

Mr. Andrade replied yes, if there is a proposal on how the Commission will move forward.

Commissioner Kelley asked if there is funding to assist the community in paying their sewer bill

Mr. Andrade replied the USDA funding is only for the project. A Prop 218 rate study was completed in February of this year. It was reviewed by the funding agencies and the agencies provided comment. The original rate increase was greater than the rate recommended. There was a recommendation to reduce the rate increase because the USDA funding covers the capital improvement portion program. The fine from the RWQCB affects the increase. The proposed rate increase is \$69. There isn't any room for a reduction in the rate. The USDA also contracted with RCAC to create and implement policies to assist the District. A 90% increase in the rate would be immediately implemented and then over a three year period an additional increase would be implemented. The District has been in violation for several years and a compliance project needs to be completed.

Commissioner Jackson asked if the District is dissolved and a CSA is formed, would a new Prop 218 be required.

Mr. Heuberger replied yes, a new Prop 218 would be required.

Commissioner Castillo asked if the Prop 218 passes, when would the residents see the increase.

Ms. Salas stated August 10<sup>th</sup> is the deadline to submit any updates or corrections to the County for the next billing.

Ms. Hudson stated the rate increase should not be reflected all at one time but gradually. She has seen four different reports regarding how many parcels there are in Niland. She wants to know the correct parcel count.

Mr. Heuberger replied if the goal of the Board was to spread the increase over several years then why wasn't the Prop 218 geared toward that.

Ms. Hudson replied a gradual increase was not an option per Mr. Van den Burgh.

County of Imperial Economic and Development Manager Ms. Esperanza Colio stated the bigger picture is if the grant funding were not available, the residents would ultimately have to pay the fine of 5 million dollars to the RWQCB. The sewer rates would then increase a substantial amount.

**Motion by Commissioner Jackson to commence dissolution proceedings, authorize the EO to work with the County and provide a letter to the funding agencies and passed by the roll call vote of Froelich, Jackson, Kelly, Castillo and West.**



8. **Discussion/Action/Adoption of the Final LAFCO Budget for FY 2017/2018**

Mr. Heuberger stated a draft budget was presented in February and approved by the Commission. The final budget has not changed. Mr. Heuberger stated the roof needs repairs but has not been budgeted and he is seeking bids. The item can be brought back to the Commission as a supplemental in the future.

**Motion by Commissioner Castillo and passed by the roll call vote of Jackson, Kelley, Castillo and West.**

**PUBLIC HEARING ITEMS**

9. **Public hearing to consider the approval for the annexation/de-annexation of Bornt-Osborne (HV 3-15)**

Mr. Heuberger stated this is an annexation and a de-annexation on the south side of Holtville. Property is being de-annexed from the City to the County. Property is being annexed from the County to the City. LAFCO received a request to correct the final annexation map and that will be addressed prior to the recording of the annexation. No oppositions have been received.

**Motion by Commissioner Froelich to approve the annexation and de-annexation and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo, and West.**

10. **Public hearing to consider the approval for the annexation of Russell Court (IM 5-15)**

Mr. Heuberger stated this is an annexation to the City of Imperial. There have been several discussions between the City, IID, and LAFCO regarding the undergrounding of canals. The LAFCO, several years ago, per the request by IID created a policy to underground canals adjacent to a project unless the IID did not require it. The IID provided a letter stating they are not requiring the undergrounding of canals for this project and that letter has been provided to the Commission. The City has approved the project and the resolutions are included in the packet.

Commissioner West stated since there were letters received in opposition to the project, he would like Mr. Heuberger to explain the role of LAFCO.

Mr. Heuberger stated the LAFCO does not have authority over land use regulations. The City in partnership with LAFCO processes the environmental review. During that process the public has the right to comment on what they feel are impacts created by the proposed project. Most of those comments are related to land use and the City is the agency that can address those comments, not LAFCO.

Commissioner Jackson asked what the basis was for IID not requiring the undergrounding.

Mr. Heuberger replied there is a letter from IID included in the packets but doesn't specifically state the reason why they are not requiring the undergrounding.

**Motion by Commissioner Kelley to approve the annexation and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo, and West.**

11. **Continued Public hearing to consider the approval for the annexation of Justo Felix (IM 3-15)**

Mr. Heuberger stated this item has been before the Commission twice. At the last hearing, the Commission requested the City take this project back to the City Council for possible action.

City of Imperial Planning Director Mr. Jorge Galvan stated the Imperial City Council held a public hearing on May 17<sup>th</sup> and notices were sent to property owners within 500ft of the project. During the meeting, the City Council did affirm their previous approval of this project and are requesting the LAFCO continue the hearing to allow the City to place additional conditions on the project. The annexation was approved by City Council in 2016 and conditions were attached to the project at that time. Since the approval, there have been complaints and concerns by the public and the City Council wants more time to address those concerns.

Mr. Heuberger stated the City will have another hearing to place additional conditions on the project. Mr. Heuberger stated there were previous discussions regarding the property owner possibly changing the project to another use, is that still on the table.

Mr. Galvan replied that there were discussions at a staff level, not before the council. The City has not taken any action to change the use, it will remain as a trucking business.

Legal Counsel for the applicant Mr. Carlos Fox stated the applicant is agreeing to continue the hearing. The applicant is in agreement and willing to cooperate with the conditions that the City is requesting. Mr. Fox is asking for clarification as to why the LAFCO cannot approve the project today since the current issues are regarding land use and LAFCO doesn't have land use jurisdiction.

Mr. Heuberger replied the LAFCO will not approve a project until the City approves and places the conditions on the project.

Legal Counsel to LAFCO Mr. Ryan Childers stated there is a right for the applicant to have the project heard no later than 70 days after the date first stated in the original notice. Mr. Childers asked if the applicant is willing to waive that right and continue the hearing to the September hearing.

Mr. Fox replied the applicant is in agreement to waive the right and continue the hearing until the September regular hearing.

**Motion by Commissioner Kelley to continue the hearing until September and passed by the roll call vote of Froelich, Jackson, Kelly, Castillo, and West.**

12. **Public hearing to consider the dissolution of the Winterhaven Fire District (WFD 1-15)**

Mr. Heuberger stated he had a conversation with the County Executive Officer Mr. Ralph Cordova yesterday and Mr. Cordova is requesting the Commission continue this item to allow the County more time to address the communication tower issue. A copy of the e-mail from Mr. Cordova requesting the continuance has been provided to the Commission.

County CEO Mr. Ralph Cordova stated he is requesting the Commission continue this item for 30 days to allow the County and SBA more time to work out the communication tower issue.

SBA Legal Counsel Ms. Emily Murray stated she agrees with the request for continuance.

**Motion by Commissioner Jackson to continue this item and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo and West.**

13. **Public hearing to consider the protest for the annexation of Miller-Burson (EC 1-16)**

Commissioner West recused himself due to a possible conflict of interest as he owns property near the project site.

Mr. Heuberger stated this hearing is to accept any written, not verbal, protests that are in opposition to the project that was approved by this Commission on March 23, 2017. After the protest hearing, staff will validate the written protests against the County official records and within 30 days determine if there are sufficient protests filed. No protests are allowed after the close of the hearing.

Mr. Heuberger stated for the record, the written protests received at today's hearing will be read. The following protests were received today; Brian Thomason, Jennifer Thomason, Magnolia Martinez, Moises Plascencia, Salvador Acevedo, Veronica Acevedo, Alejandro Acevedo, Gene Araujo, Gene Araujo Jr, Alexis Araujo, Christian Araujo, and Cecilia Araujo.

Commissioner Froelich asked if Mr. Heuberger can confirm the amount of protests received.

Mr. Heuberger replied as of yesterday, 16 protests have been received, but have not been verified against the County records.

**Motion by Commissioner Jackson to close the hearing and passed by the roll call vote of Froelich, Jackson, Kelly and Castillo.**

Mr. Heuberger stated this concludes the protest hearing. All written submittals will be validated against the County records. If there are any disputes regarding being a valid registered voter, then the individual would need to contact the County.

Lotus Resident Mr. Lauren Ness stated the petition allows for either a registered voter or landowner to protest.

Mr. Heuberger replied that is correct. As long as the individual is a legitimate property owner or registered voter. The protest submissions will be verified against the most recent equalized assessment roll and registered voter information from the County.

Lotus Resident Mr. Julio Rodriguez asked for an explanation of the process depending on the outcome of the protest.

Mr. Heuberger replied the protests will be verified against the County records. The Commission has 30 days from today's hearing to verify the vote count and make a finding. If there are sufficient votes and the protest passes, then the project would be terminated. A final count will be made and if there are at least 50% plus one protest votes, the project will be terminated. At that time the applicant Miller-Burson can apply to annex the property and exclude the Lotus area. The applicant can return before the City and modify the current conditions and LAFCO could either approve or deny the annexation.

Mr. Rodriguez stated several of the neighbors are under the impression that the City can annex the Lotus area without landowner agreement.

Mr. Heuberger replied if Miller-Burson annexes without the Lotus area then that Lotus area would become an island.

Mr. Rodriguez asked if creating an island is permissible by law.

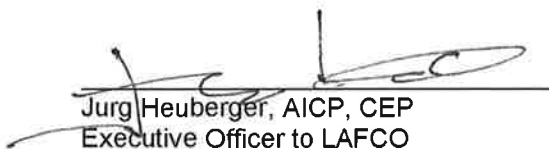
Mr. Heuberger replied the law allows for the creation of an island. There is also a provision that allows a City to annex an island without a protest.

Mr. Rodriguez stated it is his understanding according to law that any island created after 2014 cannot be annexed.

Legal Counsel to LAFCO Mr. Ryan Childers stated it's laid out in the statute and it's something that was carefully looked at leading into this and we will cross that bridge when the time comes and it must be reviewed depending on the facts at that time.

## EXECUTIVE SESSION

David West, Chairman



Jurg Heuberger, AICP, CEP  
Executive Officer to LAFCO