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María 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

ACTION MINUTES OF THE REGULAR LAFCO HEARING

June 22, 2017

8:30 a.m.

El Centro City Council Chambers
1275 Main Street, El Centro, CA

VOTING COMMISSIONERS PRESENT:

María Nava-Froelich, Vice Chair
Jason Jackson
Michael Kelley
Ray Castillo

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

West

STAFF PRESENT:

Jurg Heuberger, Executive Officer
Julie Carter, Accountant
Paula Graf, Clerk
Ryan Childers, Legal Counsel

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

3. Public Comments

Lotus resident Mr. Michael Mostrong stated he would like clarification. In the event the Miller-Burson annexation does not go through because of the protest then the Lotus area would not be annexed. Miller-Burson can turn around and reapply the next day to annex only the Miller-Burson property. That means that the Lotus residents would lose their 50% of the sewer and water costs. The residents would then lose their raw water line and the City would want to streamline the annexation. The residents would then be liable for 100% of the annexation.

Mr. Heuberger replied that is correct.

Lotus resident Mr. Jim Ollen stated he has the same concerns as Mr. Mostrong. How many votes did it take for the annexation to go through.

Mr. Heuberger replied he will explain the results of the protest hearing.

DISCUSSION/ACTION/DIRECTION ITEM(S)

4. The Commission will make a finding regarding the value of written protests filed and not withdrawn concerning Resolution 2017-07 ordering the annexation of EC 1-16 Miller-Burson.

Mr. Heuberger stated today's hearing is to validate the protest votes that were collected prior to the close of the protest hearing on May 25th. At the end of that hearing several written protests were received, both by property owner and registered voters. By the statute, the votes were counted by registered voter and by property owner separately. If the number of protests received had exceeded 50% plus one, then the project would have been terminated. We did not receive 50% plus one. The statute states if you receive less than 50% but more than 25% protest votes then an election would need to be scheduled. There are 67 registered voters per the County records and 23 registered voter protest votes were received. There are 29 parcels and 13 property owner protests were received. The property owner votes are different because it counts the protest votes and the property value. The total property value of the 29 parcels is \$10,216,979 per the County assessor's records. The total value of property for the 13 protest votes is \$4,670,240. The first action that needs to be taken is to certify that the protest votes were counted correctly. The second action is to forward the resolution to the County Board of Supervisors and the Elections department and request an election be scheduled. A special election could be called but there is an 88-day time limit frame. The recommendation is to forward the resolution and request the election be scheduled during the regular election in November.

Commissioner Froelich asked who would pay for the election and if we would be in compliance with the time frame.

Mr. Heuberger replied that the election can be scheduled no less than 88 days from the date of LAFCO approval. LAFCO would pay for the election.

Commissioner Jackson stated the City of El Centro scheduled an election and the cost was between thirty and thirty-five thousand.

Commissioner Froelich asked if it would be a ballot and who would draft the pros and cons.

Mr. Heuberger replied it would be a regular election that would allow the 67 registered voters in the Lotus area to vote. Mr. Heuberger and LAFCO legal counsel would draft the pros and cons.

Commissioner Froelich stated for the benefit of the public there were some questions raised by the public that she would like to have addressed.

Lotus resident Mr. Carlos Vela stated he moved to the area seventeen years ago, and it's a peaceful and quiet area. There is only traffic in the mornings when the children are on their way to school and after school. He is concerned to have construction near his home as it will destroy his and his family's peace. How can the City make the residents obtain a loan to afford the improvements such as lights, streets, and gutters. It's unfair for this decision to be made without taking into the residents into consideration. Mr. Vela cannot afford to pay another loan.

Mr. Heuberger asked why Mr. Vela is under the impression that he needs to obtain a loan.

Mr. Vela replied that he would need to obtain a loan to pay for the improvements such as the lighting, streets, and gutters.

Mr. Heuberger replied the El Centro City Council passed a resolution stating what the rules would be for the Lotus residents. This resolution was requested by Mr. Heuberger to address the various concerns of the residents. The resolution clearly states what the residents can and cannot do if their property were annexed. The residents do not have to put curbs, gutters, and sidewalks. The City will allow the County's current zoning guidelines to remain. The raw water provided by the IID will remain. IID stated the Lotus canal is not scheduled to go out of service for some time, if ever. In the event the Lotus Canal would cease to exist, then the developer has agreed to provide a right of way for a future raw water line to the Evergreen.

Mr. Vela stated he wants to see it in writing. He cannot afford another loan. Why can't they build homes on the East side of town. There will be kids fighting, using drugs and vandalism. He wants to keep the peace that he has. It will become worse if the homes are built.

Mr. Heuberger replied the conditions are stated in the City's resolution.

Commissioner Froelich stated it's the understanding that the City of El Centro has not grown. The City wants economic development in housing. These are high end homes.

Mr. Vela stated if you want to build homes it makes no sense when there are homes across the street from Ross that are being rented and not sold.

Commissioner Jackson replied it's a free market society, if a developer wants to build then they must have the data showing they can sell those homes. The conditions by the City are stated in the resolution. There are members in the audience that have been misinforming others. The fifty percent that the developer has agreed to pay is in jeopardy. The City could turn around and annex the properties and the residents would be liable to pay one hundred percent of the costs.

Mr. Vela stated he would like for the next LAFCO hearing to be after 4pm, he cannot afford to take time off work. This may be a reason that he is uninformed.

Mr. Heuberger replied the City meetings are in the evenings at 6pm. The City has land use authority, the LAFCO does not.

Commissioner Jackson stated a copy of the City resolution is being provided today to those who would like a copy.

Mr. Ness stated he would like a copy of the submitted protests. To clarify, there are costs involved for the sewer and water. There was a presentation by the City that stated what the costs would be, and that's if the developer agreed to paid a share of the costs. Mr. Ness has a copy of the costs to show to those saying there aren't any costs

Mr. Heuberger replied what Mr. Ness is referring to is a City sponsored informational meeting. At that meeting, City staff made a presentation that showed what the costs could be for the sewer and water lines. This was a pre-City council meeting. Mr. Heuberger requested all requirements be put in writing, which the City provided in the resolution that's being provided today. The tract map clearly states the developer must pay 50% of the sewer and water line installation costs. The City's engineer estimated the total cost is about \$1.5 million. The City does not have any requirements upon annexation. If the developer doesn't have the requirement to pay anything and the Lotus property owners must annex, then the property owners would be liable for 100% of the costs. If in November the protest is successful, the project would be terminated. Miller-Burson can apply the next day to annex only the Miller-Burson property and exclude Lotus. At that time the Lotus residents would not be entitled to a vote.

Commissioner Castillo stated an island would be created.

Mr. Heuberger stated if the protest is successful then an island would be created. The original CKH Act ordered all the LAFCOS to annex islands. A provision in the law was added that allowed an exception to create an island. At that time the LAFCO could annex the Lotus area without a protest. Mr. Heuberger clarified he's not saying that will happen. The reality is if the protest is successful and the Miller-Burson project is terminated, the developer can turn around and apply to annex only that area and exclude the Lotus area. The City can at that time request LAFCO to annex the island and rescind the resolution that requires the Miller-Burson developer to pay fifty percent of the sewer and water installation costs. The Lotus residents do not have to pay for the annexation as of now since it's included in the Miller-Burson annexation.

Commissioner Jackson asked if we can avoid an election. There are numerous residents that would rescind their vote due to being misinformed.

Mr. Heuberger replied the options need to be reviewed with legal counsel. It may be possible to continue the hearing to allow time to review and schedule another protest hearing within thirty days to allow the residents another opportunity to review the information and to allow a protest.

Lotus resident Ms. Patricia Perez asked what happens if you sell your property, do the new owners have to make the improvements.


Mr. Heuberger replied the conditions stay with the property and must be disclosed upon selling.

Motion by Commissioner Jackson to continue the hearing until July 27th and passed by the roll call vote of Froelich, Jackson, Kelley and Castillo.

5. The Commission will consider adopting a resolution calling an election concerning a confirmation vote for Resolution 2017-07 ordering the annexation to the City of El Centro of the territory described in that order and designated as EC 1-16 Miller-Burson.

No action was taken.

Maria Nava-Froelich, Vice Chair



Jurg Heuberger, AICP, CEP
Executive Officer to LAFCO