
COMMISSIONERS

CITY

Maria Nava-Froelich, Chair

CITY

Jason Jackson

COUNTY

Michael Kelley

COUNTY

Raymond "Ray" Castillo, Vice-Chair

PUBLIC

David H. West



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

January 25, 2018

8:30 a.m.

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

VOTING COMMISSIONERS PRESENT:

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

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

None

STAFF PRESENT:

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

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

3. Election of Officers for 2018

Motion by Commissioner Kelley to elect Commissioner Froelich as Chair.

MOTION: KELLEY
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

Motion by Commissioner Jackson to elect Commissioner Castillo as Vice-Chair.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

4. Approval of Consent Items

- A. Minutes from August 24, 2017
- B. Project Report update

Motion by Commissioner Jackson to approve 4A and 4B.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE

5. Public Comments

No public comments were made.

ANNOUNCEMENTS

6A. Announcements by the Commissioners.

Commissioner West stated he enjoyed being Chair and congratulated Commissioner Froelich.

Commissioner Froelich stated there was a City Council meeting on Tuesday for the second hearing on a sewer rate increase. The residents rate will remain the same. There will be rate adjustments for commercial, industrial, apartments and the school district. Some businesses weren't paying. Commissioner Froelich thanked Ms. Justina Arce from the Holt Group for working on the rate study.

Commissioner Kelley stated the CALAFCO conference in San Diego had a good turnout. Commissioner Kelley was elected as the Treasurer to the CALAFCO Board. The succession is to ultimately become chair of the Board. The Board is fiscally prudent and committed to working on the budget and finances. It's a new year and the Legislative Committee is working on making sure LAFCO is represented on a state-wide basis. LAFCO is important, it's the Commissions job to determine what growth continues to go on.

6B. Announcements by the Executive Officer

Mr. Heuberger congratulated Commissioner Froelich. Mr. Heuberger will be attending the southern division of LAFCO's meeting on the 29th along with Commissioner West. Commissioner West is the current Treasurer of the southern division. There has been a lot of discussion in regard to the fees that each LAFCO pays to CALAFCO each year. That is expected to be on the future agenda.

7. **Discussion/Action/Direction regarding an update of the Niland Sanitary District**

Mr. Heuberger stated back in August of 2017 this Commission voted to dissolve the District contingent upon a Successor Entity taking over. The County had asked for more time to be able to review their options. Mr. Heuberger has worked and met with County staff and Mr. Jose Angel from the RWQCB. The County has completed several technical studies for both the conditions of the system and the financial picture for the operations and maintenance. Those studies are being reviewed and adjustments are being made. The fines imposed by the RWQCB are factored into the rates that the residents ultimately have to pay. The County is making progress and will hopefully have a resolution in the next couple of months.

I.C. Director of Public Works Mr. John Gay stated the County has been making progress since August. A sewer assessment was completed and included the review of uses and connections. The County needs to know who is connected and what those connections are. Those reviews are important because it's reflected on the rates and an accurate rate is needed. Information will be provided to the public today to keep them informed. The County held one outreach in Niland to gather the comments and concerns from the residents and that was reflected in the study. The information will be provided online and handed out as needed. The County anticipates having a rate that they will be able to discuss with the residents in February to give them an idea of what the new rates could be. The goal is to have the Board of Supervisors consider the dissolution in March. The County has been meeting with the regulatory agencies and have been able to extend the letter of conditions of the USDA grant.

Commissioner Kelley asked for clarification on the next steps that need to be taken.

Mr. Heuberger replied the next step is for the Board of Supervisors to act and decide what type of successor entity they want to form. This item would come back before LAFCO. LAFCO would dissolve and concurrently form a new successor entity.

Mr. Gay stated the County had requested conditions specific to what type of entity would formed in the event the County takes it over the District. The County has decided what type of entity they wish to form and plan to be ready in March. It's important to be transparent and allow the residents time to digest. There will be a meeting on January 31st to discuss the EDU study which is the backbone of the rates. Once that dialog has taken place with the residents another meeting will be held in February to divulge what the rates are and hopefully take action in March. The County will keep Mr. Heuberger informed and can answer any questions the Commission may have.

Commissioner Kelley commended the County and everyone who has worked on this.

Commissioner Froelich stated she concurred with Commissioner Kelley's statement. It's been a task to go back to the community and try to gain the peoples trust. The County should continue to work with the residents to address their concerns moving forward. Commissioner Froelich asked if the Proposition 218 is moving forward.

Mr. Gay replied the Proposition 218 is moving parallel with the studies. A rate needs to be established prior to proceeding with the Proposition 218 vote. The County reviewed the previous rate study and looked at it from a technical standpoint. The County has been working with The Holt Group and RCAC to make adjustments.

Commissioner Froelich stated one concern is the Niland residents had an increase back in 2014. They are paying a higher amount than the City of Calipatria whose residents pay only \$22.88. The City of Calipatria hired a consultant to conduct an analysis and found that some businesses weren't paying for service so adjustments had to be made. Luckily the resident's rates stayed the same. Commissioner Froelich stated the County should review the school districts rates in Niland.

Mr. Gay replied the next community meeting is to advise the residents of the results of the study. To update them on the information that was obtained relative to connections and the uses. The County wants to share that information and policy calls need to be made. As an example, undeveloped lots are currently being charged, a policy call is would they continue to be charged.

Commissioner Castillo thanked the County for their hard work. When it's all said and done there will be a new sheriff substation, fire substation and an upgraded sewer plant.

Commissioner Froelich thanked the County and all involved. It's LAFCO's duty to ensure what's best for the community.

Niland Sanitary District Operator Mr. Victor Zamorano asked if the employees will be let go or will be able to keep their jobs.

Commissioner West replied that is not part of LAFCO's decision making but up to the Successor Entity.

Commissioner Kelly replied the operators have been doing the job for a long time now and have the experience on how the system works. Continued employment is possible, and would be a reasonable response of the agency that takes over, but that doesn't guarantee continued employment

Resident Mr. Ojeda stated he has asked the NSD to explain the process of the Proposition 218, it was rejected in March and again in August and no one will answer him. Mr. Ojeda attended the

Proposition 218 meeting for the City of Calipatria and asked the same question. Mr. Ojeda was told the Proposition 218 can be brought back for a vote until it passes. If that is the case then why is a vote needed.

Mr. Heuberger replied the first Proposition 218 was passed by the voters but was then turned down by the NSD. The second time the voters rejected it. As to how many times a Proposition 218 can be brought back is unlimited until it passes. The Successor entity is required to conduct a Proposition 218 to set the rates. Keep in mind that every time it comes back for a vote it is revised to try and make the rates acceptable. Mr. Heuberger stated we are trying to fix a bankrupt system. The County has been bailing out the district. The only reason the NSD is operational is because the County has been loaning them money every year. The District is broke and in need of an entity that will run it responsibly at a reasonable rate to the residents.

Commissioner Froelich stated the Proposition 218 is required, as was the same for the City of Calipatria. The City of Calipatria had to conduct a Proposition 218 as a requirement to receive grant funding.

Commissioner West asked Mr. Ojeda what he wants, he has met with Mr. Ojeda on several occasions.

Mr. Ojeda replied the residents want a rate that is fair with their budget. There was a 24% increase and now a 100% increase. The residents will be paying more than the value of their properties.

Commissioner West stated that the residents will be given a fair rate but that rate has to be paid. The rate has to be enough to operate the system. The money cannot come from the County, the area has to take care of itself. The County is conducting a fair assessment and the rate is based off how many residents receive the service. If the rate is rejected the grant money will be lost. It cannot continue to operate as is and will get shut down if nothing happens. The County will do what they think is best but they have to be given a fair shot.

Mr. Ojeda replied the residents have many questions and some have been double charged for years.

Commissioner West stated that is a separate issue from LAFCO. The residents can approach the Board of Supervisors with those concerns. Commissioner West stated we need to move forward to ensure the residents have sewer service.

Commissioner Froelich stated the first time the City of Calipatria had a school bond it failed. The City campaigned and it ultimately went through. The funding is contingent upon a Proposition 218 passing

Niland resident Mr. Ojeda asked if the board members would remain the same as the NSD.

Mr. Heuberger replied no the board members will not be the same.

Mr. Ojeda stated that is good because the NSD board members appoint themselves. He visited the elections department at the County and was told they lost track of who the board members were.

Niland resident Mr. Alex Hernandez resident asked if all this information will be available for public record.

Mr. Heuberger replied all the information that has been gathered is available. The County had a community outreach and another one is scheduled. The County can provide documentation.

I.C. Economic and Development Manager Ms. Esperanza Colio stated the County went door by door to deliver information to both property owners and renters. The same information was mailed to the property owners

Mr. Hernandez asked where can he obtain information regarding the grants, RCAC, the studies and the teetering plan.

Mr. Heuberger replied he can contact Ms. Colio regarding the grants and Mr. Gay for any studies.

Ms. Colio stated RCAC provided assistance on the rate study at no cost to the community. There are conditions that are spelled out regarding the funding. In addition, a pre-application was submitted for the additional funding that is needed to complete the project.

Mr. Hernandez asked for information regarding the teeter plan.

Mr. Heuberger replied he can visit both the LAFCO office and the County to gather the requested information.

Ms. Monroe asked about the RV dump, she is concerned regarding the possible chemicals being used.

Commissioner West replied she would need to bring that question before the new entity.

Commissioner Froelich asked if Mr. Gay could follow up on this concern.

Mr. Gay replied he would follow up on this.

Ms. Monroe asked if the board has the right to sell water from the chamber. She sees many people going to get water.

Commissioner West replied that issue has to be taken up with the chamber.

Ms. Monroe asked if the NSD has the right to bill residents separately.

Commissioner Jackson replied that those are questions that will need to be asked at the next community outreach meeting. The LAFCO is only dealing with the dissolution.

Niland resident and former Board Member Ms. Juarez thanked all involved in trying to make the district functional. There are questions and concerns from the public but there are a lot of residents that see what is needed to make the town function. Some residents want this to go forward. There are many residents that live below their means and many that can also afford the increase. Something needs to be put in place to be able to sustain the plant.

NSD Board President Ms. Debbie Salas stated she's been searching for a permit for the chamber dump site but hasn't been able to locate it. The site has been tested and haven't found any chemicals. She thanked everyone involved and stated the District is trying to do their best.

Commissioner Froelich stated for the record she does not own property in Niland. Her father owned a home in Niland but it now belongs to her brother.

No action taken on this item.

8. Discussion/Action/Direction regarding the Heffernan Memorial Healthcare District (HMHD 1-15)

Mr. Heuberger stated in 2015 the Commission gave the District an opportunity to move forward and function as it was intended to function and provide healthcare to the residents. Staff have been working with the District. Mr. Heuberger thanked HMHD Board Members Ms. Bernal and Mr. Martinez for meeting with him and other board members that he has met with. He met with Mr. David Dale and Ms. Hurtado from the City of Calexico. LAFCO staff has asked for a significant amount of information to provide the Commission with a full review and where we are and perhaps when ready a recommendation. There is a lot of information to review, primarily the finances and to see where the District stands in terms of providing service. There have been a number of events that have gained a lot of attention including the media. That was related to an HMHD retreat in La Jolla. Mr. Heuberger stated there were issues with the consultant. Mr. Heuberger advised the consultant that he could not and would not attend this retreat and it would be inappropriate. The consultant placed Mr. Heuberger on the agenda. He was informed that it was directed by the Commission that Mr. Heuberger be present and he refused.

Commissioner Kelley stated that the Commission did not direct Mr. Heuberger to attend.

Mr. Heuberger stated subsequently and am sure you have read in the newspaper was a concern on how the District funds were being used. The other issue is the City of Calexico asking the District to fund the ambulance system. That is the Cities duty and not HMHD. Mr. Heuberger has met with the District and the City and have stated his concerns. He has not advised the District to pay or not pay the City but stated his concerns, legal concerns and concerns relative to the direction given by the Commission when the dissolution was considered. The City has also been advised of the past due SAP that has been requested for many years. Interim City Manager Mr. David Dale is present today, it's not his fault but has been advised. Aside from the City asking for funding, the LAFCO doesn't have a picture of where the City is financially other than the most recent information received from Mr. Dale. The question is even if the District funded the City ambulance we still don't have a clear picture of the City and if it's appropriate. Mr. Heuberger has stated it may not be an appropriate use of funds and the Commission may have concerns and may result in the Commission voting in favor to dissolve. He is not saying these are illegal, that conclusion has not been reached. Research is being done to see if it is legal and doing research with the state on how the money is accumulated and how it's supposed to be spent. If the District funds the City for the three years they are requesting, what happens after the three years, will it still fail. It's not an efficient use of government funds. The charge of this Commission is to ensure the agencies provide the service after they determine if they can afford it. Two of the Commissioners are on City councils and face the same requirements in terms of the SAP. When the SAP was looked at for both Commissioner Jackson and Commission Froehlich's cities, one of the things that is looked at is are you providing the service you are required to provide and what other service that maybe you aren't required to provide and can you financially afford it. As an example, if the City of Calipatria SAP was providing a service that they cannot financially afford and that service could be provided for free then that SAP would not be adequate. That's the issue with the City of Calexico. The City states they need \$700,000 to keep the ambulance service afloat. The ambulance is not a requirement of the City, it is available at no cost. The County and all the cities and agencies just completed a master agreement for county-wide ambulance at no cost to the cities. As a Commission you have to ask why. If this was to subsidize their sewer plant that is a required service then maybe it would be an option. Everyone wants more services, but that's not the charge of government. That's the issue with the request and the thought of providing it. At this time not all the information is available, no decision is being made today to dissolve or not to.

Commissioner Kelley stated this item was before the Commission almost a year ago and we chastised them for lack of a better term for not providing the required services to the community in respect to healthcare. That came off the heels of the grand jury investigation. A business plan was requested, was that submitted and has it been enforced.

Mr. Heuberger replied yes, the business plan was received within six months or so and he has been working with Mr. Rivera and several board members. The plan included contracts to work with both hospitals and one or two doctors. The plan was reviewed and thought it was a good step in the right direction. The District planned to use their funds to provide healthcare to the residents that pay the fees. The Commission agreed to the plan. Other issues have come up since that time and subsidizing a city that is already tax supported is inappropriate. The same taxpayers are already paying taxes to the city for service. It's not a requirement or a legal obligation of the District. The \$700,000 could provide much better healthcare opportunities for the residents. We sympathize with the cities financial situation but it comes back to does the City have to provide that service. It's not a required service but an option.

Commissioner Kelley stated you think the City would have addressed this issue years ago.

Commissioner Jackson stated its important for the residents of Calexico to know they are already paying taxes for this service and by paying the fee to the district the residents would be double taxed. If the District funds the ambulance and that service can be provided at no cost then it results in double taxation.

Mr. Heuberger stated it would take money from the district that could be used to provide healthcare services to a broad range of people.

Commissioner Castillo asked if ambulance service is considered a healthcare expense.

Commissioner West replied at the last LAFCO conference he attended a seminar on hospital and healthcare districts. It is possible to fund an ambulance service but that is when the district decides to become the ambulance provider, not funding another agency. Usually the larger districts that don't have the option of a no cost ambulance service are the ones that do so. If the district funds the ambulance service it would take the majority of their funding. That funding could be used for other healthcare services.

Commissioner Kelley stated this hearing is to get an update on what's been going on with the district. It's also a question if subsidizing Calexico is appropriate and it's a legitimate concern. The Commission is responsible for making sure the district provides the services. This will come back before the Commission for serious attention and direction

Commissioner Castillo stated he was invited to the La Jolla retreat. At that time, he was told that Mr. Heuberger and Supervisor Mr. Renison were attending and Mr. Renison was scheduled to speak on Friday. Mr. Heuberger was scheduled to speak on Saturday and Commissioner Castillo on Sunday. The plan sounded good and his impression was that everyone would be attending but only three board members showed up. He was told that Mr. Heuberger cancelled because of an emergency. He wasn't told that Mr. Renison couldn't make it. Part of the retreat was for him to address the board and to meet an attorney that represents the California Endowment Organization out of Sacramento, Ms. Melinda Guzman. There was a discussion of the possibility of obtaining a 5-million-dollar grant to build a hospice center and a veteran's clinic. Commissioner Castillo thought it was a great plan, but looking back the retreat should have been in Calexico or El Centro. Commissioner Castillo drove up Sunday and came back that same afternoon. He initially spoke with the consultant and was asked if the County could assist with providing funding through the public benefit program for \$15,000. The funding would have been used for the consultant since the consulting was for grants. He is only one vote out of five supervisors so it would have to go to the full board for approval. The item never reached the board for approval since the board declared a moratorium. If you read the news it looks like the District was given \$15,000. All in all, the retreat did what it was intended to do. The controversy was regarding how the money was spent. The District was trying to do the right thing. Commissioner Castillo has been catching a lot of flak, not necessarily from the Imperial Valley Press but from other sources about the County giving money to them.

Commissioner Froelich stated as a LAFCO Commissioner, the message to the District is this Commission is concerned and we want the district to move forward. The District is on a probation status and doesn't have a much-needed Service Area Plan and are out of compliance. This is taxpayer's money and it's LAFCO's responsibility to ensure the district is compliant and providing the services. There are concerns of how the district has been carrying themselves. Moving forward the district needs to make an effort or they are at risk of being dissolved. The Commission doesn't want to dissolve, they want to support the district but have to be vigilant and do what's right for the community.

Commissioner Jackson stated this is a concern of the viability of the district. One of the issues he has is when Mr. Heuberger advised the district prior to the press getting a hold of it that it wasn't a good idea to have this retreat. There was talk about lobster dinners and tea times and everything that revolved around it. Mr. Heuberger advised it was not a good idea yet the district continued down that road. There are decisions being made that aren't in the best interest of the public. The retreat could have been held in Calexico to help our own economy. Those dollars should have stayed local and the perception of going to Torrey Pines and spending thousands of dollars when the cost could have been \$1,500 locally. Commissioner Jackson has been in public service for many years and has been to several retreats, most in the valley for little expense. If the district is getting advice from other people, whether it's fellow board members, their attorney or the public and they say it's acceptable to spend that kind of money then the board should question that. There was backlash from the public. The fact is that when the district was told it's not a good idea to have this retreat when they're on probation and do it anyways it seems like the board doesn't care. There are ramifications and it's not good government.

Commissioner West stated he wants to commend the Board and Ms. Bernal for not giving into the pressure and giving the City the money. LAFCO wants to help the district moving forward. Mr. Heuberger has 37 years of experience and he understands governance and how things work. Utilize the people that can help the district. We are all in the same county, neighbors and friends. Utilize the people that care instead of trusting people that don't want you to succeed. The Commission wants to help but there are guidelines that need to be adhered to. When someone says you can do whatever you want with the money they are not being truthful. The District cannot do whatever they want, there are guidelines. Commissioner West commends the district for not giving into the pressure. It would be disastrous to give the city the money.

HMHD Board President Mr. Hector Martinez apologized for the recent controversy. The District wants to move forward and welcomes the advice of the Commission. The LAFCO approved a five-year probation period prior to Mr. Martinez being on the board. There are three new board members and this last year has been a learning experience. There have been conflicts amongst the board members and weren't moving forward as should have been. The board has learned and has the right vision and are working closely. Regarding the ambulance service there have been a couple of meetings with the City. There is still a lot of pressure from the City and the residents. The residents don't know the whole picture, but research was done and ultimately the board voted 3-2 to not fund the City ambulance. The City has the option of outsourcing the ambulance at no cost. The previous city manager mentioned the ambulance service was a burden. That was a main concern that led to the district digging deeper and making the right call. The District wants to move forward and provide medical service. They've been working with the hospitals and hope to expand services. The City requested the district fund the ambulance service for \$700,000 a year, that would be over 80% of the district's budget of \$900,000. The District is not here to only provide one service but several. That's another reason it was voted down. In the upcoming years there are plans to work with the hospitals and one of the goals is to learn from others that are doing better. There will be meetings with other healthcare districts to learn what they are doing. The District can move forward and do good. Mr. Martinez thanks the Commission for their insight and concerns.

Mr. Heuberger thanked Mr. Martinez, he is a new board member and the new Chairman. Both Mr. Martinez and Ms. Bernal have made a real effort to provide information and visit the office to explain what might not have been understandable in print. Mr. Heuberger shares the comments with the Commission, the Commission and staff are here to work with the district but they need to recognize that certain actions might have severe consequences.

HMHD Legal Counsel Mr. Edward Rivera stated the comment Commissioner Froelich stated about the SAP being out of compliance is incorrect. The SAP was adopted on May 26, 2016.

Commissioner West stated the SAP included updates and monitoring.

Mr. Rivera replied the Commission can monitor all they want but the point is the SAP was adopted. The Chair stated the district didn't have a plan.

Mr. Heuberger stated the SAP was adopted with the provision that a business plan be submitted. The District is being monitored consistently.

Mr. River replied the District is being monitored but is not on probation.

Commissioner Kelley stated as far as the Commission is concerned the District is on probation.

Mr. River replied there is nothing in the LAFCO resolution that states the District is on probation. For the Commission to state that the LAFCO resolution 2016-19 has a probationary term on the adoption of the SAP is incorrect. Obviously, the Commission will monitor the District and that is in the comments today.

Commissioner Froelich stated she made the comment based on the fact that Mr. Heuberger stated the SAP was out of compliance.

Commissioner Jackson replied Mr. Heuberger was stating the City of Calexico's SAP is out of compliance not the District.

Commissioner Kelley stated the District is on probation to be scrutinized, it's a manner of terminology.

Mr. Rivera replied it's not a matter of terminology, Commissioner Kelley was a probation officer and he should know.

Commissioner Castillo stated probation sounds harsh, monitoring is correct.

Mr. Rivera stated the District is not on probation, the LAFCO resolution doesn't have those terms. Back in 2016 Commissioner West asked if the District could provide updates. The District submitted an update on May 26, 2017 and the Commission hasn't reviewed it. This is the first meeting since the submittal. Commissioner West then asked Mr. Heuberger if the district could provide annual updates. The District agreed to provide annual updates. It's stated on the tapes that you can go back and review.

Commissioner Froelich stated as far as the Commission is concerned the District is on probation.

Mr. Rivera replied the Commission is watching and monitoring and they can always do that it's not a problem.

Commissioner Jackson asked Mr. River if he has given counsel to the HMHD board that LAFCO would never dissolve the district because of political reasons.

Mr. Rivera replied no he hasn't, the Commission has options.

Commissioner Jackson replied the Commission does have options. Commissioner Jackson asked if Mr. Rivera as legal counsel to the district ever made comments to the board either individually or collectively that this Commission would never take any negative action toward the district.

Mr. Rivera replied no.

Commissioner Jackson stated he wanted that on the record.

Commissioner Kelley respects the attempt to clarify specific words or definitions but that's getting off the main line. The Commission is concerned with the district providing the proper service and don't want to get sidelined with small comments. The Commission is here to do what they can to assist the district in moving forward to provide the services to the community. The Commission is overseeing what's going on and the residents need a fair response with their tax money and making sure the money isn't being spent on unnecessary expenses. The information will come back before the Commission to ultimately make a decision to either pat the district on the back or give that responsibility to someone else.

HMHD Board Member Ms. Sylvia Bernal stated she wants to clarify a few things. She's been meeting with Mr. Heuberger on a regular basis to make sure the district is following what they should. Ms. Bernal was Chair to the board up until December. She's happy to work with Mr. Heuberger although at first, he seemed mean. Ms. Bernal approached Mr. Heuberger after the retreat took place, not before. Ms. Bernal approached Mr. Heuberger after the retreat topic was in the press. The press stated the district was spending money which is true. Commissioner Jackson stated Mr. Heuberger talked to the district prior to the retreat which is incorrect.

Mr. Heuberger advised the consultant several times that the retreat was not a good idea.

Ms. Bernal stated the consultant that was hired lied to the board. The Board hired her because she promised them the moon. She was believed and has since been let go. The consultant put the District in this situation with the retreat. Ms. Bernal apologized that it happened but there were three board members that believed her but Ms. Bernal didn't from the beginning.

Commissioner Kelley asked if the consultant was related to any of the board members.

Ms. Bernal replied she's not related but was an acquaintance of another board member from being on the school district. That's how it came about, but the board was misled.

Commissioner Castillo stated the consultant and Supervisor John Renison's families are indirectly related.

Ms. Bernal stated it's a shame this happened but it was corrected. The money that was spent by the consultant was reimbursed for \$4,000. Regarding the fire department, there has been pressure. The mayor held a press conference and blamed the District if the fire station number two has to be closed down, and that's not appreciated. It's not the districts responsibility and it was turned down by the board. There was a joint meeting with the city and the district was told by Mr. Heuberger that there were concerns with funding the city. Ms. Bernal is sorry it happened and it's been a nightmare for the past five months with the bickering back and forth and the situation with the consultant. It was a hard lesson learned. Ms. Bernal was in the news often, and was blamed for ordering lobster when she never attended. Ms. Bernal strongly believes the advice given by Mr. Heuberger and when he asks for information it's provided. Mr. Heuberger is doing the right thing and wants to work with the district. The District wants to do a lot for the City of Calexico and there are plans for a clinic and meetings with Dr. Edward. Hopefully there will be updates the next time the District is before the Commission.

Commissioner West asked who at the district reviews RFP's.

Ms. Bernal replied the board reviews them.

Commissioner West stated if the board isn't familiar with reviewing them, his suggestion is to find a professional. If one is poorly written and the others are well written then you can substantiate what they have done and check their references. You can get some outside help and Mr. Heuberger can help.

Mr. Heuberger stated there was a brief discussion and one of the problems is the District needs to look at hiring an Executive Officer or somebody that does the day to day work and analysis for the board. Right now, the only staff technically that the district has is Mr. Rivera as the attorney. The individual board members are trying to juggle the work. There should be a manager that reviews everything and provides an update to the board. The chair shouldn't be the one to have to meet with Mr. Heuberger. The District can benefit from hiring someone that does that day to day action. It doesn't have to be an expensive executive position but someone that can gather information, analyze it and provide it to the board. At the meetings attended the board members ask Mr. Rivera for direction and it's not always a legal question. Mr. Heuberger and Mr. Martinez have talked briefly on this subject and the board should look at how it could be restructured to where technical support could be provided by another staff.

Commissioner West stated there may be help through the hospital associations.

Mr. Heuberger stated for example the League of Cities has what they call range writers that specialize and are on call for the cities.

Commissioner West stated the District may be able to find someone that can specialize in what they need.

Ms. Bernal replied the District belongs to a health care organization. Mr. Martinez has provided an update on the need to hire a staff person because the burden falls on the Chair.

Commissioner Jackson commended Ms. Bernal and his comments were not directed towards her. Ms. Bernal has worked tirelessly with Mr. Heuberger and he does update the Commission on those meetings. The Commission is aware that Ms. Bernal didn't attend the retreat. Some individuals did take advantage and there are lessons learned. The Commission doesn't want to dissolve the district, but wants to work with them. A dissolution is a long process that no one would want to undertake. The Commission is here to protect the public and try to help each district to be successful. The District was placed on a monitoring process years ago because the Commission didn't want to dissolve. The Commission doesn't want to go down the dissolution road but will if needed.

Ms. Bernal stated she understands and appreciates Mr. Heuberger's time. The Board will take into consideration on hiring a staff person.

Commissioner Kelley stated it sounds like we are going in the right direction.

Commissioner West stated this Commission doesn't always agree but they shake hands at the end of the day and move on.

Commissioner Castillo stated he represents the City of Calexico and is glad they will be making some progress in moving forward. Commissioner Castillo also recommends hiring a staff person

to oversee the operations. At the retreat there was talk about opening a veteran's center, the possibilities are there and better times are ahead.

Commissioner Kelley asked when the next update is.

Mr. Heuberger stated within the next two months if the documents can be put together. The next step is to meet with the District and discuss the issues and request a better plan. The District has a lot of money. The Commissions charge is to make sure those dollars are used in the most effective way. In respect to the City of Calexico SAP, Mr. Heuberger will be working with Mr. Dale to get it completed.

No action taken on this item.

9. Discussion/Action/Direction/Adoption of the updated Rules and Regulations to Implement the California Environmental Quality Act (CEQA)

Mr. Heuberger stated as most of the Commission serves on political boards, every agency in California must have regulations on how CEQA is implemented. Staff has updated the rules and regulations to implement CEQA to reflect changes in state law and court cases. Few changes were made and the LAFCO's guidelines coincide with the county and cities.

Motion by Commissioner Jackson to adopt the updated Rules and Regulations to Implement CEQA.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

10. Discussion/Action/Direction regarding Employee Retirement Healthcare

No discussion on this item.

Motion by Commissioner Jackson to approve the Employee Retirement Healthcare.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

PUBLIC HEARING ITEM(S)

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

Mr. Heuberger stated this is an annexation that's been on the agenda several times and was referred to the City of Imperial because of concerns raised by both the residents and this

Commission. Modifications were made by the City to the land use approvals and entitlements. The Commission, City and the applicant have been provided an analysis including the City resolutions and additional backup. The recommendation is to approve Option #1 of the Executive Officers report.

Commissioner Froelich stated there were concerns at previous hearings from residents related to the traffic impact from the project.

Mr. Heuberger replied conditions have been placed on the project and the City has imposed additional conditions on the mitigation for the traffic including a bond requirement.

City of Imperial Project Manager Mr. Jesus Villegas stated the City has been working with the applicant Mr. Felix and the engineering company and all the requirements have been addressed in the improvement plans.

Commissioner Kelley stated this has been before the Commission several times and the applicant has made the effort.

Commissioner Froelich asked if the applicant Mr. Justo Felix agrees to the conditions on the project.

Mr. Felix replied that he agrees with the imposed conditions.

LAFCO Legal Counsel Mr. Ryan Childers stated in the past Mr. Felix has used a Spanish language interpreter. Mr. Childers asked if he is comfortable with the English language today.

Mr. Felix replied yes.

Commissioner Jackson asked if the new conditions placed by the City were recirculated to the residents.

Mr. Villegas replied yes, the City held two public hearings and the conditions were recirculated.

Mr. Heuberger stated the annexation is approved subject to compliance with the conditions. This item will record once all conditions have been met including all fees paid.

Motion to approve the annexation, Option #1 by Commissioner Kelley.

MOTION: KELLEY
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

12. **Public hearing to consider the approval of the Service Area Plan (SAP)/Municipal Service Review for the City of Calipatria (CL 1-16)**

Mr. Heuberger stated pursuant to the CKH Act, LAFCO is required to review the services of the City every five years. Mr. Heuberger has worked with the City Manager Mr. Medina and the City Consultant Ms. Justina Arce. Mr. Heuberger appreciates their efforts. The plan has been reviewed and it meets the CKH requirements. Like most cities, there are issues that need to be addressed but none that raise red flags at this time.

City Consultant Ms. Justina Arce stated she assisted with the update of the report. The City has seen nominal growth and the increase and decrease in population is associated with the prison population. The capacity for both water and sewer are operating at 50% or below capacity. The water is a service provided by an outside provider and the sewer provided by the City. The City is taking proactive steps in improving aging infrastructure.

Commissioner Froelich asked if the new sewer rates could be included in the report.

Ms. Arce replied they would be included as an attachment.

Commissioner Froelich clarified the water is provided by Golden State Water as an outside service and the phone company is an outside service.

Ms. Arce confirmed those services are provided from outside providers and not the City.

Commissioner Froelich stated the City has been operating with a deficit. Some of that deficit will be recaptured from the new rates and the City will be able to set aside reserves.

Ms. Arce replied the deficit was associated with isolated collapses in the collection system and not a consistent expense. The new EDU rates will create a reserve.

Commissioner Froelich stated the City will keep an eye out on the finances.

Commissioner Kelley asked if the surrounding solar projects contribute funding to the City.

Ms. Arce replied that the solar revenues do not contribute to the City. The school district receives funding. Interestingly the school district was the sole complainer regarding the rate increase.

Mr. Heuberger stated the requested attachment can be added by the City of Calipatria, the item will go back before the City and they would pass a resolution approving the SAP and adding the attachment as an addendum.

Commissioner Castillo commended the City Manager Mr. Medina for making progress, they have been struggling financially for several years.

Motion by Commissioner Jackson to approve the SAP/MSR with the sewer rate study added as an attachment per the request of Commissioner Froelich.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

13. **Public hearing to consider the approval of the Service Area Plan (SAP)/Municipal Service Review for the Seeley County Water District (SCWD 1-15)**

Mr. Heuberger stated several years back there were serious concerns and a consideration of a dissolution of the District. The problems at that time were due to a dysfunctional board. Mr. Heuberger has been working with the District and the plan has been reviewed and the District is positively moving forward. There are representatives from the District here today. Ms. Justina Arce is present today and can answer any questions.

Commissioner Kelley stated the report is thorough and thanked the District for the work.

Motion by Commissioner Kelley to approve the SAP/MSR for the Seeley County Water District.

MOTION: KELLEY
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

14. **ANTICIPATED LITIGATION**

The Local Agency Formation Commission ("LAFCO") will recess to closed session with its attorney regarding anticipated litigation in that:


Significant Exposure To Litigation Against The Local Agency Formation Commission. A point has been reached where, in the opinion of LAFCO on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against LAFCO. There are 2 such potential cases. (Government Code §54956.9(d)(2).

Motion by Commissioner Jackson to go into closed session.

MOTION: JACKSON
AYES: FROELICH, JACKSON, KELLEY, CASTILLO, WEST
ANO: NONE
ABSTAIN: NONE
ABSENT: NONE

Legal Counsel Mr. Ryan Childers stated there were two items that were of anticipated litigation that were discussed. Both items were discussed only, direction was given but no action was taken.

Maria Nava-Froelich, Chair



Jurg Heuberger, AICP, CEP
Executive Officer to LAFCO