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COMMISSIONERS

CITY

Maria Nava-Froelich

CITY

Vacant

COUNTY

Michael W. Kelley, Vice-Chair

COUNTY

Ray Castillo

PUBLIC

David H. West



ALTERNATES

CITY

Vacant

COUNTY

Jesus E. Escobar

PUBLIC

Vacant

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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  
**February 25, 2021**  
8:30 a.m.

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**VOTING COMMISSIONERS PRESENT:**

Michael Kelley, Vice-Chair  
Ray Castillo  
David H. West  
Maria Nava-Froelich  
Javier Moreno

**ALTERNATE COMMISSIONERS PRESENT:** None

**ABSENT:** None

**STAFF PRESENT:** Jurg Heuberger, Executive Officer  
Julie Carter, Accountant  
Paula Graf, Analyst

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

1. Roll Call
2. Pledge of Allegiance

**3. Election of Officers:**

**i. Election of Chair**

**Motion by Commissioner West and electing Commissioner Kelley as Chair for 2021.**

**ACTION:** Elect Commissioner Kelley as Chair for 2021  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**ii. Election of Vice-Chair**

**Motion by Commissioner Kelley and electing Commissioner West as Vice-Chair for 2021.**

**ACTION:** Elect Commissioner West as Vice-Chair for 2021.  
**MOTION:** KELLEY  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**4. Approval of Consent Items:**

- A. Minutes from October 22, 2020**
- B. Project Report update**

**Motion by Commissioner West and approving Items 4A and 4B.**

**ACTION:** Approve Items 4A and 4B  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**5. Public Comments**

No public comments were made.

**6A. Announcements by Commissioners.**

- i. CALAFCO Board of Directors meeting (Kelley/West) report on annual strategic plan meeting**
- ii. Southern Region update (West)**

Commissioner Kelley welcomed incoming Commissioner Javier Moreno.

Commissioner Moreno stated it's an honor to be on the Commission especially since the City of Calxico hasn't been on the Commission for many years.

Commissioner Kelley stated he attended a 2-day CALAFCO strategic planning workshop. The membership dues were finalized by a unanimous vote of the CALAFCO Board.

Commissioner West stated the CALAFCO strategic planning meeting was a fast meeting after the discussion of membership dues. The membership dues have been a source of irritation over the past

two years. The board will discuss the budget during the April meeting. Commissioner Kelley is Chair of CALAFCO. It's difficult for Imperial County to have a seat at the table because of how small we are in population.

Commissioner West stated he attended a Southern Region meeting. The region meets on a regular basis to discuss current issues and offer assistance.

**6B. Announcements by the Executive Officer.**

- i. Commissioner Jackson- Appreciation Award**
- ii. Commissioner Predmore- Appreciation Award**
- iii. Commissioner Snively- Appreciation Award**
- vi. Financial Statements FY 19/20**

Mr. Heuberger welcomed Commissioner Javier Moreno and thanked Ms. Blanca Acosta for scheduling the City Select Committee Meeting.

Mr. Heuberger stated the CALAFCO staff workshop that is typically held in the spring has been continued until 2022. The annual conference that is usually held in the fall is being reviewed to see if it will be held this year. An update will be provided.

Mr. Heuberger thanked Commissioner Jackson and presented a plaque in recognition of the years of support he provided to the commission and to staff.

Commissioner Kelley thanked Commissioner Jackson for his years of service. He was instrumental in representing the cities concerns and his leadership will be missed.

Commissioner West stated it was enjoyable working with Commissioner Jackson. He recalls a time when he lost his keys and wallet in the taxi and had to rush through the airport. Mr. Jackson was always prompt and made things happen.

Commissioner Froelich stated it was a pleasure working with Commissioner Jackson. She would consult with him on a regular basis. She enjoyed talking at the conferences and looks forward to working with him in the future.

Commissioner Castillo stated it was a pleasure working with Commissioner Jackson. He looks forward to working with him and his company.

Commissioner Jackson thanked the Commission. It has been a pleasure serving on LAFCO.

Mr. Heuberger stated the financial statements were provided to the Commission. The statement indicates we are in compliance and the accounting that is handled by Accountant Julie Carter is in good standing. If an issue is found, the Commission would be notified by the auditor.

**7. Discussion/Action/Direction regarding the re-appointment of Commissioner David H. West as Public Member for another term.**

Mr. Heuberger stated Commissioner appointments are for a four-year term. After the four years are up a new or re-appointment will need to be made. The Commission is being asked to re-appoint Commissioner West. Continued participation on LAFCO and being on the CALAFCO Board is important.

**Motion by Commissioner Froelich and re-appointing Commissioner West to a four-year term.**

**ACTION:** APPROVE OPTION #1 OF THE EXECUTIVE OFFICERS REPORT, RE-APPOINT COMMISSIONER WEST TO A FOUR-YEAR TERM  
**MOTION:** FROELICH  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE

**ABSTAIN:** NONE  
**ABSENT:** NONE

**8. Discussion/Action/Direction regarding the Alternate Public Member vacancy.**

Commissioner Kelley stated we received a notice of resignation from Commissioner Snively.

Mr. Heuberger stated previous practice is to place an advertisement in the local newspaper, but it is up to the Commission on how to move forward.

Commissioner Kelley asked if we have received any interest.

Mr. Heuberger replied no.

**Motion by Commissioner West and directing staff to post a notice of vacancy.**

**ACTION:** APPROVE OPTION #1 OF THE EXECUTIVE OFFICERS REPORT, POST A NOTICE OF VACANCY  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**9. Discussion/Action/Direction regarding procedures for processing annexation applications, specifically the coordination with the Cities on CEQA compliance and Tax Sharing agreement process, including establishing a Master Tax Sharing agreement with the County and the Cities.**

Mr. Heuberger stated in full disclosure I spoke with City of El Centro's Mayor Ms. Cheryl Walker this morning. Ms. Walker sent an e-mail requesting this item be continued. After speaking this morning, she is in support of the concept. I want to emphasize that this is not an effort of LAFCO or the EO to circumvent or overstep its authority on any of the actions or opportunities the city and the county may have in the tax sharing process. One reason I wanted this item on the agenda is this Commission well over a decade ago created policies on how we operate. It has been more than ten years since we have reviewed the process and I would like the Commission to review if we continue with this process. Back in the day when the first set of policies were adopted one of the issues dealt with a cities CEQA document and LAFCO would respond as a responsible agency and comment just like the public. We found ourselves in a position where we could not accept the CEQA document. Our attorneys would advise not to certify the document. We would either deny the application or we litigated. Those were our choices at the time. It put developers in an awkward position since they have no control over this process. We said that we wanted to work with the cities on a partnership basis where they city would go through the CEQA process and LAFCO acts more like a partner rather than just a responsible agency. The process worked out well. In the beginning the City of El Centro and the City of Calexico took a position of opposition. They were in agreement after the process was explained. Several attorneys took us to task and said that CEQA does not have co-lead defined in statute. We agree that it is not in the statute, however it does not say you cannot. We took the position that this is legal and logical. I am bringing it to your attention and recommend we continue the process as it saves time and money. For the most part the city planners and LAFCO staff have gotten along well and done their jobs effectively.

Mr. Heuberger stated the second part of todays topic is tax sharing. All agencies are looking for money and that is the reality of the world today. Agencies are short of money. When it comes to annexations the law stipulates that a tax sharing agreement must be in place before the Commission can decide on a project. That is where the nuance comes in. Years ago, this Commission adopted a policy that stated we would work with the cities and the county in parallel with the process while the agencies negotiate a

tax agreement. The law states that a tax agreement must be in place prior to LAFCO even starting the application process. To us as staff that is what the law says but it also serializes the process. The South Dogwood annexation is what sort of triggered this topic. You will hear on that project in a few months. The serial process is an applicant will submit an application and we would circulate it to the county assessor and request they commence the tax sharing process. The auditor-controller and CEO are notified to start the process. After the tax sharing agreement is approved then we would start our process. Keep in mind the agencies have up to 150 days to complete the tax negotiations. If we go that route it will add up to 300 days to complete an annexation. That process is explained in the taxation and revenue code. We do not want to use the serial route. We want to continue to work in parallel with the cities and the county and a project will come to the Commission once a tax agreement is signed. We do things differently than other LAFCO's. Each LACO is different. It is an efficient and effective process for staff. Back in the 1980's we had a master tax agreement. At that time it was a master tax agreement between the seven cities and the county. LAFCO was instrumental in getting that agreement signed. We met with the city managers and the county and ultimately had a master tax agreement. That agreement expired and now each annexation must be negotiated on a project-by-project basis. As you would expect if there is money to be debated over then each agency will have their wants and needs. It can take up to two years and delays projects. When I was county planning director the biggest issue from the board of supervisors was the hold up on projects. I am not saying all projects should be approved I am just saying we should focus on going back to trying to get a master tax agreement. It saves time for the developers, the city managers and all involved. Is it reasonable at this time do have a master tax agreement with all cities and the county, most likely not. I say that because we have three large cities and two smaller and as Commissioner Froelich stated the City of Calipatria wants housing. I am not saying that is not the same for the City of El Centro but El Centro's desires for accommodating a project may vary from other cities. I am suggesting that we try to obtain a city-by-city tax agreement. That would allow a project to come in and the agencies would have an agreement in place. I had a long conversation with Ms. Cheryl Walker this morning and she agreed that we would be in support. I suggested that I would offer a solution on today's item. Instead of having your Commission take a position today to halt all annexations, we would recommend deferring that component to allow the cities and the county to see which direction makes sense and then come back before you. My original goal was to light a fire under the agencies to get this issue resolved. The idea is for us to get together and figure it out. I would like to have action take today on the CEQA process. It is important to work in partnership with the agencies on the CEQA process. If you decide to take action on the tax sharing issue, then there needs to be an understanding there are ramifications. We either follow the strict interpretation of the revenue and taxation code and serialize the process or continue to process as we have. I do not recommend the serialized process, but it is an option. I prefer that we continue to work parallel rather than serial.

Commissioner Kelley stated we cannot stick our heads in the sand, we need to have progress to continue to move forward. I like the idea of applications being able to submit an annexation application while allowing the county and the city to come to an agreement on tax sharing. It took forever to negotiate a recent agreement. I think Mr. Heuberger should take the lead not only on CEQA but the master tax sharing process. We need to get it done instead of fighting on each project. It is better to have Mr. Heuberger spearhead the discussions as it will ensure no one will take advantage or point the finger.

Mr. Heuberger stated it is not my goal to interject myself in the process but to get the agencies moving forward.

County CEO Mr. Tony Rouhotas stated I am all for working on a master tax agreement, but it needs to be by a third party. Many factors must be taken into consideration especially the smaller cities. Even at the larger level we have minimal staff. Brining in a third party would bring in a fresh set of eyes and ideas. If we try to tackle it alone there will be different opinions and thoughts that might only be beneficial to one agency.

Commissioner Kelley asked if the third party would be LAFCO.

Mr. Rouhotas replied not necessarily it would be more of a consultant. We need someone that will not have a biased approach and will take into consideration the smaller cities. The smaller cities might have ideas and thoughts they want incorporated into an agreement that maybe other cities might not need. This task should not be done in house because even the larger cities need to have extra staff to take on the endeavor.

Commissioner Kelley asked who would pay for the consultant.

Mr. Rouhotas replied the apportionment needs to be taken into consideration because the cost could be significant up to \$100,000. We have had discussions to look at others as examples. The concern is that it will take a lot of staff time and we need to look at the cost and impact. It can be a significant impact to agencies general budget.

City of El Centro Mayor Ms. Cheryl Walker stated I appreciate the comments from Mr. Rouhotas but we do not have the money in our budget to hire a consultant that will essentially follow the process that has been done before. There is no one that knows more of the planning and annexation process than Mr. Heuberger. I would recommend that will do this locally rather than spend up to \$200,000 when we have the expertise locally. We are not started the process from scratch, and it is not beyond our capabilities. If we do not come to an agreement, then maybe for a narrow part of the process we could hire a third party.

Commissioner West stated this Commission has fought this battle for years and in some cases it became contentious. As a Commissioner I am not sure how we move forward but we must let all agencies know that an agreement needs to be done. We cannot have a situation where the process takes an additional six to eight months. I do not want to go by the letter of the law. I can see us giving some time to the county and the cities to come up with an agreement. If they cannot then we may need to revert to the strict way. We are just dragging it on.

Mr. Heuberger stated he appreciates Mr. Rouhotas and Ms. Walkers comments. My thought after the discussions is that we ask to have the city managers and county meet with LAFCO to discuss the options. If we sit down with the seven cities and the county and come up with a potential plan of action and agree on something that would be great. If we do not then we can always come back to the Commission and take a heavier approach. In the meantime, we welcome the comments. As Commissioner West pointed out if a developer comes in and is not happy with the annexation process, they normally come to LAFCO to complain and then to the city and the county. The last issue is the South Dogwood annexation became problematic. The applicant goes through the process of spending money going through the land use entitlements and they felt frustrated. They felt like an outsider with no control over the process. I have a concern with that process. We are looking at it from a growth and benefit to the overall county. If we have a proposed development coming and looking into invest but looks at the process of us fighting over nickels and dimes they will not want to come in and get in a dispute with the county and the city over taxes. If this county wants to grow as we keep hearing, then we cannot be perceived as Ms. Walker pointed out as fighting over nickels and dimes versus losing dollars.

Commissioner Kelley agrees that we need to get the county and the cities together to get this resolved with proper communication and negotiation.

Mr. Heuberger stated in the long term we might have to hire someone for certain aspects. If it comes down to what dollars should go where then we may need to hire a third-party financial expert. We will start out locally and see what makes sense.

City of El Centro City Manager Ms. Marcela Piedra stated good morning and thank you for allowing us to speak to this issue. You just had a public hearing on an annexation on how important growth is to the cities and the county. We agree that we need to go through the process. There are procedures in place, and we thank Mr. Heuberger for bringing this discussion to you. He mentioned he would bring this item. Back in 2006 our city adopted an environmental policy guideline that recognizes our city is working jointly with LAFCO in annexations and coordinating efforts. Not necessary on a co-lead

because it is not recognized. One of the biggest factors for us is ultimately pointing to the fact is how do we help the developer and move forward. We look at cost and timing. We did adopt this policy for our city to recognize if we go through an annexation process, we will work jointly with LAFCO. In terms of tax sharing, back in 2009 our master agreement expired but in essence as you have seen we continue to have annexations. We have working with the same terms as the expired agreement using the same apportionment and have not changed anything. The county fees remain the same and I do not know if you recall a year ago the city brought forward a consideration that we have a master agreement. We wanted to look at the way taxes are proportioned. The city ends up being the responsible agency to provide services. We ask for consideration and appreciate working with county staff. We have negotiated an agreement for the South Dogwood annexation that will come through soon. The city is responsible for providing services when property is annexed. We ask for consideration of that, and we appreciate working with county staff. We have negotiated an agreement for the south dogwood annexation so that will come soon. One of the requests of the city is that we consider allowing the city to receive additional property taxes when these new developments come in. We recognize there are costs related to county services. We want to point out that throughout these years in absence of a mast tax agreement the components are the same. We need to get together as a group. It is important that the developers that tour our county know what to expect.

Mr. Heuberger stated staff have worked well with the city and have a good relationship with Ms. Norma Villicana. That is not to say it has not been the same with other cities. The CEQA process has gone well, and we appreciate the cooperation. One other thing to mention is that when Commissioner Moreno was selected as a Commissioner the City Select Committee which consists of the seven city mayors had to make that appointment. One of the things that came out of that meeting is because elected officials change often and overtime many of them do not know what LAFCO is. One of things Ms. Walker and some of the other mayors requested is that LAFCO provide a LAFCO 101 at the League of Cities meeting. It is an introduction of what LAFCO does.

Ms. Walker stated the League of Cities meeting will be on March 25<sup>th</sup>.

Mr. Heuberger stated we will try and prepare for the meeting. We acknowledge the city and counts cooperation that we have had in terms of going through the CEQA process and land use entitlements. It is on the agenda today to advise the Commission of what our policies are since it has been ten years. We want to reiterate our policies especially if we will be making a presentation to city officials. I am willing to work with county and city staff on the tax agreement. I am hopeful that it will not fall apart.

Commissioner Froelich asked if the tax agreement that we are talking about revising, is it expiring.

Mr. Heuberger replied the last version expired.

Commissioner Froelich asked if the City of Centro's expired and was it adopted.

Ms. Piedra stated there was a master agreement that existed between the county and the seven cities that expired in 2009. In essence the same components from that tax agreement have been the same. We have had annexations since 2009. In the absence of having a master agreement we do one on a project specific basis. If we agree to the same terms of the original agreement that expired, then the project goes forward. The issue has been that these projects end up within the city. An example is the Melon Properties annexation that deals with land uses and services that revert to the city. For us we already have delivering issues and to have new development will be an additional request for service. That is why we ask for that consideration to be in the apportionment.

Commissioner Froelich stated there have been issues and some have become contentious. What I am hearing is the City of El Centro would like a higher percentage of the property taxes versus a 50/50 split.

Mr. Heuberger stated I think it is more complicated. The original tax agreement focused on property tax.

Ms. Piedra stated that is what has caused an issue for us. In the agreements that we are negotiating there is a requirement for the developer to pay impact fees to both the county and the city they are annexing to. That has caused an issue for development. You might recall the project by Mr. Gary McPhetridge called the Lotus Ranch annexation. He struggled with the fact that he had to pay impact fees to the city and the county. There was an outcry and that is the concern. The development community has to pay impact fees twice. This position has been conveyed to the county and they understand.

Mr. Heuberger stated the latest issue was with the South Dogwood annexation. The original agreement back in the 2000's dealt with property taxes which we all know are mainly fixed and we know what the percentage split is and the biggest bulk of it goes to the schools. The remaining taxes go to the city, county, and special districts then I think it is between 14-17 cents not dollar for dollar. Impact fees came into the equation after that. It made the entire negotiation process cumbersome.

Commissioner Froelich stated a council member reached out to me and it sounded like they did not want to do an agreement.

Mr. Heuberger stated by law an agreement is required. The reality of the South Dogwood annexation is that if the developer felt the two agencies could not come to terms, then the project would be dead and in reality it is true. Without an agreement signed I could not bring this project to your Commission. I did not hear that there was no effort to share taxes. The disagreement is what the ratio or fees will be. I do not want to focus on the South Dogwood project. The issue is how do we get a mechanism in place on how to more timely process future projects. I do not know if there will be equity or not, but we need to start the process.

Commissioner Froelich stated I am leaning towards Mr. Heuberger taking the lead and not hiring a consultant.

City of El Centro resident Mr. John Menvielle, 897 W. Ross Rd. stated I'm here to represent the major landowners for the South Dogwood annexation. The project stated in May 2019. That is when the Menvielle, Roth, Mostrong, and Sylvester families came together to and applied to annex 65 acres to the City of El Centro to tie into their sewer and water services. Willbur-Ellis was annexed in 2014 and they had an agreement that was negotiated in 2014. We assumed there would not be a problem. We submitted all the applications and necessary information. To date we have spent about \$170,000 in everything that needs to be done. We have a map that has been turned in on one of the parcels. The City Planning Commission approved the project in June 2020. We turned in everything to the county CEO's office in February 2020 and started working with Ms. Andrea Gonzales. We are now in February 2021 and we still have not been annexed. We have spoken to the county and to the city and have worked with Mr. Heuberger and Jeff Lyon. Jeff Lyon is a professional and has experience with the annexation process and knows how it works. We have a retail outfit that wants a location. The issue is that we have a timeline and that has been pushed back. I have spoken with Ms. Piedra and Mr. Rouhotas, and Mr. Heuberger. It is very important for the cities in Imperial County to get these agreements done. I know they have had two on two meeting with the City of El Centro and the County. We are trying to get things worked out and Marcella called me this week and said an agreement has been worked out. We are thankful for that. It has been frustrating to go through. If an applicant had to go back through this process again to get where we are today, I would say we need some kind of coordination. What Mr. Heuberger is trying to do is a real plus. The landowners need someone they can talk to. I took the lead and worked with Mr. Lyon, Mr. Rouhotas, Mr. Heuberger, county supervisors and city council members. It is frustrating not knowing what the status is. It will go to the city council on March 16<sup>th</sup> and then the Board of Supervisors. We still have to go to LAFCO and I am thankful we achieved where we are.

Mr. Heuberger stated I would like to get direction on Option #1 which is basically continuing to work on a co-lead basis for the CEQA process. I would defer action on the tax sharing to the next meeting when we have had the chance to meet with the county and the cities.



**Motion by Commissioner Castillo and approving Option #1 pertaining to CEQA Compliance.**

**ACTION:** APPROVE OPTION #1 PERTAINING TO CEQA COMPLIANCE  
**MOTION:** CASTILLO  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**10. Discussion/Action/Direction regarding an engagement extension with Davis Farr LLP for audit services for Fiscal Years 2020/2021, 2021/2022, 2022/2023, 2023/2024.**

Mr. Heuberger stated several years ago the Southern Region except for San Diego decided that the group would look at sharing services. The region developed an RFP for auditing services and retained Davis Farr LLP as the auditing firm. This is the last year the firm will be doing the audits. The region circulated an RFP, firms were interviewed, and Davis Farr LLP was selected. Legally we can use the same firm, just a different auditor and that has been stipulated. The recommendation today is to move forward with Davis Farr LLP.

**Motion by Commissioner West and approving an engagement extension with Davis Farr LLP.**

**ACTION:** APPROVE AN ENGAGEMENT EXTENSION WITH DAVIS FARR LLP FOR AUDIT SERVICES FOR FISCAL YEARS 2020/2021, 2021/2022, 2022/2023, 2023/2024.  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**11. Discussion/Action/Direction regarding legislative changes to G.C. 56133 as requested by San Diego LAFCO.**

Mr. Heuberger stated CALAFCO as an organization took a position years ago on how CALAFCO and the various LAFCOs would deal with legislation. The concept was to approach legislation in the most cost-effective way. CALAFCO's Legislative Committee would evaluate and prioritize legislation. G.C. 56133 is broad and over the past several years San Diego LAFCO and other LAFCO's have brought up issues. It deals with how special districts are responding to this legislation and LAFCO rules.

Commissioner Kelley asked if the issue is with districts providing services outside of their district.

Mr. Heuberger replied yes and some of the LAFCO's are dealing with litigation. Agencies are suing or being sued. It is an issue over jurisdiction.

Commissioner Kelley asked if the LAFCOs are affected financially.

Mr. Heuberger stated San Diego has been impacted with legal costs. One issue is special districts overlapping their services. San Diego along with other LAFCO's have asked CALAFCO to prioritize this legislation. Over the past two years the committee determined that there were other legislative priorities, and this bill needs additional work. The committee stated we need to work with the California Special Districts Association and special districts on this legislation. San Diego LAFCO became frustrated, and Los Angeles has stated it is an issue. San Diego LAFCO stated if CALAFCO does not move forward then they would seek a sponsor and hopefully get other LAFCO's support. Part of the issue is dealing with different personalities. There are instances when legislation does not affect Imperial LAFCO but we still support is as an organization. LAFCO law is statewide, and it is not one size fits all. The position on this is to see if it will go through CALAFCO and support the bill. We have notified San Diego LAFCO's EO that we would support the concept.

Commissioner Kelley stated this puts us in an awkward position as CALAFCO Board Members. We do not want to compromise our position.

Mr. Heuberger stated we agree that 56133 needs to be addressed. Orange, Los Angeles, and Riverside LAFCO's have voted in support.

**Motion by Commissioner West and Imperial County LAFCO concurs with CALAFCO that G.C. 56133 needs to be addressed.**

**ACTION:** IMPERIAL LAFCO CONCURS WITH CALAFCO THAT G.C. 56133 NEEDS TO BE ADDRESSED.  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**12. Discussion/Action/Adoption of the Draft LAFCO Budget for FY 2021-2022.**

Mr. Heuberger stated we are required by law to make a draft and final budget available to the member agencies. We try to schedule it early so the cities and the county have adequate time to review. We are presenting a draft budget today and will come to your Commission in April or May with a final budget. We made an effort to maintain the contribution rates to the cities and the county at the same level for the past four years. We are not saying that the budget has not increased, we are saying the agencies contributions have not increased. One way we have been able to do this is by owning our building. We do not pay rent and receive rental income from three tenants. We put money aside for savings and are able to utilize that to balance the budget, therefore not increasing the contributions from agencies. Some LAFCO's do not charge for services but we do. The cities and special districts pay for their Service Area Plan reviews. I want to plan for a transition when I retire. As a reminder I am paid an equivalency of about 40% of what you would pay a full time Executive Officer. At some point you will have to hire a full time Executive Officer and that will need to be incorporated into the budget. One of the things we are concentrating on is how we track our time for projects. Part of this budget projects the potential impact if a new full time Executive Officer is hired. I'm sharing this with you beforehand so that we have time to plan. I have no intention of retiring this year, however I do plan to within the next couple of years. I will make sure there is a smooth transition plan so there will not be any gaps. We have four staff people allocated in the budget but currently have three. At some point we may need all four positions but right now we are able to handle the workload.

Commissioner Kelley asked if there is a job description for the Senior Analyst position.

Mr. Heuberger replied yes there is. My philosophy is that if I leave a position, I want to make sure the new person has the ability to control the budget. I would be more inclined to leave in June so the new person could start with a new budget year.

Commissioner Kelley asked where the increases in the contingency and salaries line items came from.

Mr. Heuberger replied there is a balance of \$600,000 in the contingency fund. That includes \$250,000 set aside for emergencies such as litigation. The increase in salaries is for the senior analyst position. The remaining amount is utilized to balance the budget.

**Motion by Commissioner West and approving the 2021/2022 Draft Budget (Option 1A)**

**ACTION:** APPROVE OPTION #1 OF THE EXECUTIVE OFFICERS REPORT, DRAFT 2021/2022 BUDGET  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**13. Discussion/Action/Direction regarding the Heffernan Memorial Healthcare District.**

Mr. Heuberger stated we continue to get inundated with correspondence regarding the district. You provided direction years ago. The most recent communication was received this morning. One letter is from Aguirre & Severson LLP and an e-mail from Ms. Maritza Hurtado. In addition to these correspondences, you were provided with additional documentation. I do not know where to start but we have been working with Mr. Virgen to stay on top of the direction your Commission gave a couple of years ago. We are not here to run the district as it is not our job. Mr. Virgen will submit proposals for review to see if there will be a problem. Your direction was for staff to work with district and ensure they are doing what their charter and obligations say. I do not think we can satisfy everyone. Not everyone will agree that our oversight is adequate. I received two anonymous phone calls yesterday regarding concerns about the districts funding. I explained that I cannot react to unsubstantiated allegations. If they can provide actual documentation the district did something wrong, then I would ask Mr. Virgen for a meeting. I will not spend time on something because someone says they do not like it. Our mode of operation pursuant to your direction is to continue working with the district and basically keep them out of trouble. The last time we were here on an official action was to dissolve the district. I am happy to listen to suggestions as we are trying to work with the district. It is not a situation that has gone away.

Commissioner Kelley asked if there were issues with grant agreements.

Mr. Heuberger replied there have been funding requests. If you recall the City of Calexico requested the district to fund their ambulance and we told them it is not an acceptable expenditure. The district did not pursue that route. There have been requests to fund buildings and we have said that it is not what the district can do.

Commissioner Castillo stated I recall there were problems with the district. One suggestion made was they hire a district manager to help manage the day-to-day operations. I think it has worked out and am glad to hear from Mr. Heuberger that Mr. Virgen is reaching out. Unless we have any evidence as you say then I recommend we table this and continue to work with the district.

Commissioner Kelley asked why this item is on the agenda.

Mr. Heuberger stated it was time to provide an update.

Commissioner West stated it was recommended that the district join the California Special Districts Association. They provide educational presentations.

Mr. Heuberger replied I believe they did join CSDA. One issue you had was the district sending all board members to conferences which we thought was unnecessary. Not saying that it is not allowed but as a rule you do not send all board members just because you thought it was a good idea.

Commissioner West stated the idea behind CSDA is to help the districts and advise them on what they can and cannot spend their money on. They are willing to come out and talk to the district. We do not want to run the district.

Commissioner Froelich stated I remember when we directed to have the district work with LAFCO but we never said we would micromanage them. They have come a long way and I think that some of the concerns being brought up should be looked at by Mr. Heuberger to see if they are legitimate concerns. If the community members have concerns it is good to try and work with them so they can be more comfortable with moving forward and also avoid litigation.

Mr. Heuberger stated when staff gets a complaint or document, we look at it from the perspective of the direction that your Commission gave and if it fits within their charter. The problem I have is that there are many allegations that are made that are not necessarily backed up by facts or documents. It is hard to disprove a negative. I have met with several of the people that have

complaints, and some have to do with an organization asking the district for funding and they do not get approved. I do not think we are in a position to decide as the deciding authority whether applicants should get funding or not. We have an obligation to let the district weigh in first on how they should provide funding. Mr. Virgen will submit documents for LAFCO to review.

Commissioner Kelley stated there were serious issues with the district a few years ago and we came close to dissolving them. The realization hit them, and they have made a conservative effort to comply with the responsibilities of a special district to provide service to the community.

Mr. Heuberger stated the district took your recommendation seriously from what I have seen. One of the first things they did was recruit for a District Manager position. Things have changed quite a bit since filling that position. It is difficult to communicate with board members versus working with a staff person. The board members' perspectives can vary from one to another. A staff person will represent the board on a more collective thinking matter. We used to work directly with the Chair and Vice-Chair prior to the district hiring Mr. Virgen. There is a perception that the district is not doing enough. Maybe they are not, and I am not saying they are perfect and doing everything they should be. Mr. Virgen approached me during the beginning of COVID 1- and requested we review an approval to purchase face masks. Those are the communications we have. It has taken considerable staff time and so far, it has not impacted us. It is taking time and we may get to the point where we send the district a bill. I am providing an update because of the communications we are receiving. I'm sure Commissioner Moreno is receiving complaints as well since he represents the City of Calexico.

Commissioner Moreno stated I represent the City of Calexico and receive concerns. The concerns I receive is that there is something going on inside the district, but I do not know the particulars. People have been complaining for years including today's packet that we received. I do have concerns and today might not be the today to discuss but we do need to look at the concerns. Apparently, Mr. Virgen is inaccessible and only works four days out of the month. Calexico Wellness approached the district in March 2020 to request \$1,000 in funding to test the first responders. The district denied their application. Those are the issues that need to be addressed. The issue keeps getting compounded and kicked down the road. The citizens of Calexico are frustrated.

HMHD District Manager Mr. Tomas Virgen stated I want to say that it has been a pleasure to work with Mr. Heuberger and LAFCO. I can assure that we are doing everything by the book. (Comments inaudible)

Commissioner West stated I want to remind everyone that the district board had a complete turnover in the last ten years. There are new board members. I recommend that we continue to work with them and recommend staff keep track of their time spent on this. At some point we will say that we do not want to oversee them, but things keep coming up. I hope they are working with CSDA so they can have better guidelines. I understand the frustration. The district has a lot of money and everyone wants it. It is difficult for elected or appointed officials when people are unhappy. If the district continues to get better with funding programs within their power, it makes it easier.

Mr. Heuberger stated the district receives funding based on a special assessment that is about twenty years old. The district must spend those monies within their boundaries. We had an issue with the district funding little league uniforms.

Commissioner Kelley stated they were throwing money at special interest groups which is not right.

City of Calexico resident Ms. Maritza Hurtado stated I am smiling and saying hello. I hope everyone and their families are well. I am here to talk about the concerns of HMHD and have been paying attention to the discussions of what was talked about. I was also here shortly after the pandemic. My uncle was the first person to die from COVID-19 in March in Mexicali. Shortly after that I came before the Commission. Several of you were here and you now have a new member. I came to you to express the fact that I am highly concerned for my community. I do not get paid to come and speak. I used to be a city council member and mayor, so I am knowledgeable of my community. I am a 30-year immigration consultant and tax preparer. I am assisting my community and continue to as is we live in

ground zero. I came here to tell you that last year I was concerned because I started to see something that we already know is in Calexico. Calexico is disadvantaged in these situations. We must be fair to all members of our community with vaccines and supplies. Those are items we are getting from the county. We have high case numbers. I came to Mr. Heuberger last year about this. The residents are emotional, and people are dying. It is worse in Calexico. I read everything that was given to you in the package and am sorry if I bombard you with more information. I want to bring the concentration to where the concern is. The concern is the communities like Calexico that are so highly disadvantaged continued to be ignored to this date. We are ten months into this problem and the community groups that were funded by HMHD were completely cut. Those include a weight loss and asthma program. The people came to me because they knew I was outspoken. We must transition like you all say to get with the times. I am listening to you all talk about diversities and how things work with each city and how you go line by line on items and chasing budgets. My question to this board is can we remember why the district was established. Calexico had a hospital years ago, but it could not survive financially. The community of Calexico is bordered with Mexico and individuals that come to seek services cannot pay for those services. The hospital was closed because of the penetration of the cross borders seeking free health care. It happened to Calexico so badly we could not survive. They had to close the hospital and we only have urgent care centers and small clinics and the wonderful doctors in Calexico. Those doctors take care of us. The first responders take care of us and they have it harder than anyone else in Imperial County because not only do they take care of the Calexico residents they also take care of the border. They normally do not get reimbursed. Since the pandemic started the funding to the citizens in Calexico are limited. There is nothing out there. As far as I know I understood the district is supposed to be the healthcare leader in the city. There is so much money but where does it go. I come here today and am glad you had this meeting because it is timely. I am not here to represent anyone other than my citizens because they come to me. The information that is in the packages was provided to me. The district has not had financial activity and they do not provide the public records I requested. There is quite a bit of hostility and I am upset. When my mother found out she had cancer years ago, she transferred the business to me and applied for Medi-Cal. She is truly an uninsured person. For the past ten months we have watched the district basically ignore the community crisis that we have. They do not have relationships with other agencies. You do not see anything that the district is doing in the newspapers. I wish you knew what it looks like in Calexico. No one cares about us and they do not care about the first responders because we do not have a hospital. There is concern that Dr. Vo is doing this and that but it does not match the financial transactions. I received a response from Mr. Virgen stating the district decided not to give the donation of \$25,000 to Dr. Vo. The district came back from Del Mar in early March and cancelled every program. They stated it was due to COVID-19. Those programs said they could come back and transition to the new way which is zoom. The information the district provides is not enough for the amount of money that is received. What is the district doing for us. I wanted to come here today and tell you the things that are happening and the reason why I cannot sleep. We are throwing money away so that Dr. Vo can assist the uninsured. The same money we saved for twenty years of health savings and taxation and the taxpayers do not have a choice. Dr. Vo was approved for \$280,000 from the community program and now they want to reapply again. These disadvantaged communities will not come to you. We have to reach out to them. I am not sure how long this will end up happening. We lost our hospital and is giving money away to uninsured our priority right now. The worst thing they say is that to give what we believe are the transitional visitors that do not have a residence in Calexico and are only using a family members address. I am tired of complaining and have a business to run. I want to make sure we are really dealing with a non-profit and cannot believe we are not looking at any direct benefit as you all said to the people who live in our city. We are working with Mr. Virgen and I know he is upset with me with it is not the time to have a part time staff as a district Manager. We need someone there 24-7.

Commissioner Castillo stated that COVID-19 has affected everyone especially in the County of Imperial. The county recently sent a letter to the Governor asking for more vaccinations. Our concerns are that we are not getting the number of vaccines. We are receiving far less than other counties. I understand that there are concerns about the District and it is the pandemic.

Commissioner West stated this conversation has gone past the time.

Mr. Heuberger stated we will take a look at everything and bring it back to the Commission.

No action taken on this item.

**14. Discussion/Action/Direction regarding contracting with a person/firm/agency to provide legal services to LAFCO.**

Mr. Heuberger stated our current legal counsel Ryan Childers is closing his practice and moving out of state. We will need to obtain new legal counsel and the question is how the Commission wants to move forward. One option is to reach out to attorneys that CALAFCO uses like Best Best and Kreiger or Colantuno, Highsmith & Whatley. Another option is to put out a solicitation and a third option is to see if our local attorneys would be interested. We want to stay local.

**Motion by Commissioner West and directing staff to circulate a solicitation for legal services.**

**ACTION:** DIRECT STAFF TO CIRCULATE A SOLICITATION FOR LEGAL SERVICES  
**MOTION:** WEST  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

**15. Public hearing to consider the approval for the annexation of Melon Properties (HV 2-14) to the City of Holtville.**

Mr. Heuberger stated this is a public hearing to annex approximately 7.75 acres to the City of Holtville. A staff report and analysis has been provided. City of Holtville City Manager Nick Wells is present if the Commission has any questions. A component of the charge of LAFCO is to ensure that the cities and districts can provide the services financially and technically that they are authorized to provide. Every city, not just in Imperial County has difficulties meeting their requirement like police and fire services. Unlike sewer and water which are enterprise funds, fire and police services are hard to charge for. Each city has a standard based on population and density versus the number of support staff. It is a balancing act between if there are enough police per population and the question is how to finance it. In this case if we were to be rigid, we would deny the annexation because the city is not meeting their standards. That would be a rather harsh approach. It is a catch 22 if the city cannot annex, they cannot increase their growth and revenue. We are suggesting the city revisit its Service Area Plan and come up with recommendations and approaches on how they can increase those service capacities and to perhaps look at their standards. We are not saying the standards are too high, just asking for it to be reviewed. Let us start on a review of their services and we will work with them.

Commissioner Kelley asked when the last Service Area Plan was.

Ms. Paula Graf responded the last Service Area Plan was in 2017.

Mr. Heuberger stated we are not asking for a complete updated Service Area Plan; we are asking for a review of their standards. At this time, we will not consider new annexation until the services are reviewed. This annexation has been reviewed and are in concurrence the obligations for the annexation have been met. An issue that came up is the zoning. Once an annexation is approved the zoning cannot be changed for a minimum of two years. The city is in the process of amending their zoning ordinance and we have been working with Mr. Wells. The recommendation is to approve the annexation.

City of Holtville Manager Nick Wells stated the project has been several years in the making and we are happy to move forward. We have working behind the scenes with the developer. City Planner Jorge Galvan is present today.

City of Holtville resident Michael Porter, 2323 Melon Rd. stated he is against the annexation for several reasons. They want to put apartments, but we do not need more apartments. We need good housing, and we are irritated with Mr. Wells. Holtville has new apartments between Holt and Third street. There are over 300 apartments being built there. At first the apartments were open for anyone to apply but now it is only for agricultural workers. I cannot rent there and anyone who wants to rent there cannot. Will the same thing happen with this project. Will there be adequate parking. People park on the side of the road and will cause accidents. We do not want people parking in front of our property. The city would be responsible for paying damages.

City of Holtville resident Diana Rudemen, 2323 Melon Road stated she is against the project. If it is a gated community then I would approve. There will be issues with people parking on the sides. The county asked for a right-of-way and we moved our fence back 6-feet. We have families that walk down the road and there is heavy equipment that takes up the entire road. The developer wants to build the entrance at my driveway. How will I be able to get in and out of my property. I will incur \$2,200 in costs to install a gate. There is an issue of flooding when it rains, and the water must be pumped. The city has been asked to investigate this.

Mr. Heuberger asked if these concerns were voiced at the city meetings. The Commission cannot address land use and cannot dictate the type of land use the city is proposing. We cannot tell them it must be housing versus apartments or commercial uses.

Ms. Rudeman replied it was her understanding that apartments were not being built, that it would be a gated community. We now receive a notice that there will be 152-apartments.

Mr. Porter stated a traffic study was one in June of 2020. The problem with that study was it was done during a non-busy time of the year. The agricultural produce was already done. From October until now is the busiest season. There are a lot of trucks and noise and issues with mosquito control. I would like to see what kinds of plans they have for this. I live in the county because I do not want to be part of the city. What will be done about the services the city will be provided. Holtville's Sheriff seldom patrol the Melon Rd. area. Drugs and illegals come along with apartments. Everywhere you go in Imperial County there are apartments and that is what they have.

Mr. Heuberger stated we would like to hear from the city to respond to these comments.

Commissioner Kelley asked if these concerns were brought to the city.

Ms. Rudeman replied yes, the concerns were brought to the city.

City of Holtville City Planner Mr. Jorge Galvan stated the project did go to the City of Holtville's Planning Commission and City Council. There was public outcry against the apartments and that that time the developer proposed scaling back the project from apartments to other multi-family housing. This housing will be more of a duplex type of project that would include two and four flexes. The approval is for an R-2 zoning and that does not allow apartments. It all was for approximately 90-units. The developer scaled back significantly then what was originally proposed. The traffic impacts were looked at and maybe it was studied during a less busy time however an increasing factor was included in that analysis that looked at other factors. The roads will be widened, and sidewalks will be built. The city is currently in discussions with the Imperial Irrigation District on undergrounding the canal on ninth street so that improvements can be made. There is a retention basin within the project and the developer will be doing improvements so the stormwater will be addressed. The city applied for grants to address the stormwater issues and the impacts are being addressed.

Mr. Wells stated one of the reasons the project has been around since 2014 if we have been addressing these issues with the developer before we applied for an annexation. The city would not ignore or let the annexation move forward without addressing these issues. A good amount of time was spent with the developer on the topic of stormwater. To reiterate what Mr. Galvan stated, the 152-units is off the table. The R-2 designation will stay. The number of units is still in flex, but it will not arrive to the 152-units. The issues that the residents brought up have been discussed. Many of the


concerns are unfounded and a one-sided issue. No meetings were slipped in. There was a public notice to everyone. One meeting was postponed because the developer was not ready.

Mr. Heuberger stated the recommendation is to approve the annexation as presented, Option #1.

**Motion by Commissioner West and approving the annexation of Melon Properties HV 2-14.**

**ACTION:** APPROVE OPTION #1 OF THE EXECUTIVE OFFICERS REPORT, ANNEXATION OF MELON PROPERTIES HV 2-14  
**MOTION:** CASTILLO  
**AYES:** FROELICH, KELLEY, CASTILLO, WEST, MORENO  
**ANO:** NONE  
**ABSTAIN:** NONE  
**ABSENT:** NONE

Michael W. Kelley, Chair



Jurg Heuberger, Executive Officer