
COMMISSIONERS

CITY

Maria Nava-Froelich

CITY

Javier Moreno

COUNTY

Michael W. Kelley, Chair

COUNTY

Ray Castillo

PUBLIC

David H. West, Vice-Chair



ALTERNATES

CITY

Robert Amparano

COUNTY

Jesus E. Escobar

PUBLIC

Vacant

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EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL

ACTION MINUTES OF THE REGULAR LAFCO HEARING

May 27, 2021

8:30 a.m.

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

VOTING COMMISSIONERS PRESENT:

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

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

None

STAFF PRESENT:

Jurg Heuberger, Executive Officer
Julie Carter, Accountant
Paula Graf, Analyst

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

1. Roll Call
2. Pledge of Allegiance
3. Approval of Consent Items:

3A. Minutes from February 25, 2021

3B. Project Report update

Motion by Commissioner West and approving items 3A and 3B.

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

ANNOUNCEMENTS

5A. Announcements by the Commissioners

Commissioner Froelich stated she attended an ICTC meeting last night, and the draft budget was reviewed. There will be a League of Cities meeting tonight. Mr. Heuberger will have a presentation at this meeting.

Commissioner Kelley stated he attended a CALAFCO Board meeting to discuss the replacement of the Executive Director Ms. Pamela Miller. She has been with CALAFCO for about twelve years. She has a consulting business that she will be managing. Ms. Miller will help with the transition until we find a replacement. The board will be meeting on June 23rd to discuss a timeline of moving forward. The membership dues were discussed as was a hardship request by Kern LAFCO. If anyone can afford the dues it is Kern LAFCO. It was expected that a smaller LAFCO would ask for a hardship. That will be a discussion. There was a motion to deny Kerns request, but it was rescinded to allow them an opportunity to provide more information.

5B. Announcements by the Executive Officer

Necessity Item to be added to the agenda

Mr. Heuberger stated there is a necessity item that is being asked to be added to the agenda.

Motion by Commissioner West and adding a necessity item to the agenda.

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

Necessity Item

Mr. Heuberger stated this is a necessity item. The request is to transfer \$7,000 from the contingency fund to the GIS line item. The reason for this is several agencies agreeing to do a county-wide aerial photography update. The agencies were asked to join and contribute funding. It was under the assumption that this would be completed in the next fiscal year, but it was billed this year. The total cost is \$15,000.00.

Motion by Commissioner West and approving the transfer of \$7,000 from the contingency fund to the GIS fund to cover the \$15,000 invoice received from the County of Imperial.

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

ABSENT: NONE

Mr. Heuberger stated there have been major discussions on the topic of a master tax sharing agreement with the county and the seven cities. The cities, the county, and LAFCO met, and the group decided that LAFCO should spearhead the effort to find a consultant to complete a study. There are some preliminary costs. There is a meeting scheduled with the city managers and county to discuss how to proceed. The discussion has come down should there be a master agreement with the smaller cities and a separate agreement with the larger cities. It's an ongoing issue. The other project that has been languishing for some time is the Rancho Los Lagos Community Services District. The holdup has been the negotiations between the applicant and the City of Brawley. The City of Brawley is being requested to provide bulk water to Rancho Los Lagos and in turn the CSD would bill the residents. The next hurdle assuming the water issue is worked out is the negotiations with the county. The county will act as the board until there are enough residents to elect a board. Having experience with the Gateway CSA this project can take a long time. The county board and county public works would presumably manage the district until a board is elected. The bottom line is the LAFCO cannot form a new district unless it is shown to be financially viable. It is a challenging project and hope to get it done within the next year.

DISCUSSION/ACTION/DIRECTION

6. Discussion/Action/Direction regarding proposed Assembly Bill 1021

Mr. Heuberger stated this item has been discussed at previous meetings and through e-mails with backup information. The original bill requested to add three non-voting members from Coachella Valley to the Imperial Irrigation District Board of Directors. The bill was amended after discussions with Riverside LAFCO, Imperial LAFCO, and IID. The bill included language that included the cost of the study that would be paid by the state. The bill went through the process at Sacramento and was amended removing the funding. A draft opposition letter is included. The County of Imperial residents should not have to pay for the cost of this study. Riverside LAFCO will be presenting the bill to their Commission with the potential of supporting the bill. CALAFCO has sent an opposition letter mainly on the basis that this bill sets a dangerous precedence to require studies such as this one to be funded by local agencies.

Commissioner Kelley stated the IID is a special district and should have a seat on this commission. He does not know why they are not.

Mr. Heuberger replied progress is being made on the special districts seat. There have been discussions with Mr. Ortega at IID, Heber Public Utility District General Manager Laura Fischer, IID Director James Hamby, and IID Director Jim Hanks. There might be some forward movement.

IID Government Affairs and Communications Officer Antonio Ortega stated IID is engaging with the other special districts and will have a meeting soon in the early part of next month. The IID board is interested in making sure that there is a larger share of the contributions by the special districts. That was a sticking point in recent discussions and discussions about two years ago. The IID board gave approval at the staff level to make a larger contribution that would be higher than any other special district based on the size and budget. Even the smaller districts don't have the budget to cover the costs. The formula that was recommended at that time was looked at again. There have been discussions with Ms. Fischer from HPUD. This bill is front and center for the IID board. Some of the cities and the county have taken an opposed position just as was the case with the previous bills. Assuming this bill is signed and there will now be a study that Imperial and Riverside LAFCO have to take part in, IID wants to make sure there is a seat on LAFCO. That would be discussed and contemplated with the entire board but that is an important reason to have representation.

Commissioner Kelley stated it is a ridiculous request from Riverside. Does IID have an absolute nucleus as to what caused this to happen. Does it have to deal with solar or some financial benefit.

Mr. Ortega replied it is a combination of things. IID and Coachella Valley have a unique agreement. There have always been politics involved with the CVWD. There are some critics developers, private citizens, and some elected officials that have been vocal in their opposition that asked the assembly member to carry two years ago. IID has had open communication with Assembly Member Mayes and met with in January. He was advised that IID was having conversations about the possibility of crafting a Memorandum of Understanding (MOU) to do a study which is what Mayes is asking for. IID received a call three weeks after this meeting to say that the bill was moving forward.

Commissioner Kelley stated adding a non-voting member does not make sense.

Mr. Ortega stated two years ago the intent of the bill was clear. The bill at that time was to add six board members to an existing five-member board all from Riverside. A year from today there's a chance that Mayes can say that the board member now should have a vote. The bill is waiting a vote on the assembly floor.

Commissioner Kelley asked what Assembly Member Garcias position is on this bill.

Mr. Ortega replied that Garcia does not have a formal position but expects that he will vote in support. The concept of having a representative on the board is something he supports but does not go so far as saying he supports AB 1021. He will have to do that soon since the last time he did not have to vote but this time he does and that will be his position. The deadline is June 4th and expect the bill to be voted on between now and next Friday.

Commissioner Castillo suggested a letter be sent to Garcia outlining the opposition because there is no funding for this study.

Mr. Heuberger stated what is typically done is we send a letter and then cc the others.

Commissioner Froelich stated the one asking for the study is the one who should pay for it.

Mr. Ortega stated this bill gives a little more time but then the funding mechanism was taken away. The appropriations committee last week removed it. The funding would have reimbursed or paid for the study.

Motion by Commissioner Castillo and directing staff to send a letter in opposition of AB 1021 as presented with a copy to Assembly Member Garcia to be signed by the Executive Officer.

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

7. Discussion/Action/Direction regarding the Alternate Public Member vacancy.

Mr. Heuberger stated as you recall every position on the commission has an alternate in the event the original cannot attend. Commissioner Wests alternate Mr. Ed Snively has resigned to focus on health. Per your direction staff posted advertisements soliciting interest in the position. None were received. Commissioner West stated Dennis Burgh may be interested but if there are

interests or people you would like to refer then we can go that route. He will ask Mr. Burgh if he is interested and bring it back. If there are others that might be let us know.

Commissioner Kelley stated he might have someone that is interested.

Mr. Heuberger requested names to be sent to him so that he can explain what LAFCO is to see if the person is willing to commit time to it.

No action taken on this item.

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

Mr. Heuberger stated as you recall Ryan Childers was the legal counsel under contract. He provided his resignation and decided to move out of state. LAFCO solicited interest from attorneys within the County of Imperial. One formal written response was received from Steve Walker. With your direction an agreement can be negotiated with Mr. Walker to become legal counsel. Many may already know Mr. Walker.

Commissioner Kelley asked what the annual costs for legal counsel is.

Mr. Heuberger replied approximately \$500 per month for a monthly retainer. Direct services would be the result of a project in which there is a provision that the applicant would pay those costs. There's a litigation line item in the budget that would cover legal fees if needed. Mr. Childers would attend the meetings, review the projects on the agenda and meet with the Executive Officer on issues.

Commissioner Froelich stated attorney William Smerdon seemed like he was interested, and he was going to contact Ms. Graf

Mr. Heuberger replied there was a discussion with Mr. Smerdon and advised him to submit interest but staff have not received.

Motion by Commissioner West and directing the Executive Officer to negotiate an agreement with Steve Walker for legal services to LAFCO.

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

9. Discussion/Action/Adoption of the Final LAFCO Budget for FY 2021-2022.

Mr. Heuberger stated the final budget and the bottom line has not changed from what was recommended in the draft budget. The final budget does not propose an increase from the funding agencies which means the cities and the county will not have an increase in contributions which has been the case for the past four years.

Commissioner Kelley asked what would change if IID joined the commission.

Mr. Heuberger replied if special districts were seated on the commission, then the funding would change to 1/3 county, 1/3 collectively special districts, 1/3 collectively cities. The cities pay a percentage based on the revenues reported by the State Board of Equalization. The City of El

Centro's contribution is the highest since the hospital revenue is counted. The IID offered a higher contribution amount in exchange for a permanent seat. It is not an uncommon practice. Other LAFCO's such as Los Angeles has a different formula. The 2nd seat would be voted on by the special districts. The IID agreed to pay roughly between 80-85 percent of the special districts share. Some of the smaller districts have limited budgets and a cost of \$1200 would not be feasible. Recent discussions with IID have indicated their willingness to contribute a higher amount but not 100 percent. IID requested both seats but that is not a reasonable request. There is hope that the IID board will move forward.

Commissioner Froelich stated the commission has dissolved districts in the past. Would the county then become a special district. The calculations would change when special districts are dissolved. If IID does become part of LAFCO, is a special hearing required for that.

Mr. Heuberger replied no because of the special districts that were dissolved, most of them were fire districts. In those situations, it's already under the umbrella of fire services that the county provides. A CSA was formed to operate the Niland Fire District, but it is separate from the county. It is like the Gateway CSA. The budget is the same as last year as far as the contributions. The process for the special districts to become seated, the special districts must vote to take that action. If the majority vote in favor of being seated, there will two special districts seat on the commission.

Motion by Commissioner West and approving the Final Budget as presented for Fiscal Year 2021-2022.

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

PUBLIC HEARING ITEM

10. 8:40 a.m. Public hearing to consider the approval for the annexation of South Dogwood (EC 1-19) to the City of El Centro.

Mr. Heuberger stated this is an annexation hearing. Ms. Graf did an excellent job at putting the report together. This annexation is in an area directly west of the mall. It takes in a pie-shaped piece of land that is bordered by the railroad on the west and Dogwood Rd. on the east. It is substantially developed land by industrial, commercial, and residential at the south. The City of El Centro went through the land entitlement process and the project was approved. City of El Centro Planning Director Norma Villicana is present today to answer any land use questions. In the packets are the city council approvals. The City of El Centro with LAFCO participation approved a Mitigated Negative Declaration (MND). The mandatory findings start on page 5 of the report. As was mentioned before this project is the project that triggered the master tax sharing conversation. The Executive Officer and Commission declare to not have a conflict of interest in this project. The recommendation is on page 10 and that is subject to any changes from public input. The recommendation is to approve the project subject to these conditions.

Commissioner Froelich asked if the project can move forward without a tax agreement.

Mr. Heuberger replied that current law requires a tax sharing agreement prior to brining it for action by the Commission. There was a lot of back-and-forth discussions that triggered the City of El Centro's Mayor Cheryl Walker to come to the office and explain why LAFCO should be

involved in facilitating the discussion. There have been a couple of informal conversations with City of El Centro City Manager Marcella Piedra and the County of Imperial CEO Tony Rouhotas. It was ultimately decided that LAFCO would spearhead the effort to obtain a master tax sharing agreement.

G.S. Lyon Consultants, Inc. Jeff Lyon stated he spearheaded the annexation for the landowners. There are four landowners that comprise about 65-acres to be annexed. The City of El Centro approved the zone changes, land use, and annexation back in June of last year. It took about nine months to get a tax sharing agreement. The conditions have been reviewed and are agreed to. Whatever paperwork is needed will be submitted. Hopefully this annexation will be finished so that the first project can be developed.

Commissioner Froelich asked if there are additional areas surrounding the 65-acres that have the potential for future annexation.

Mr. Heuberger replied there is some additional land to the west of the project that is within the county. There is a sliver between the railroad and the city boundary. There were discussions with Mr. Lyon and his group in the early stages of this project to see if that area could be included but it was not feasible at this time.

Commissioner Kelley asked if this annexation creates an island.

Mr. Heuberger replied no it does not create an island.

Motion by Commissioner Castillo and approving the annexation, Option #1 as presented.

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

Michael W. Kelley, Chair



Jurg Heuberger, Executive Officer