



Item: Minutes from August 24, 2023

Meeting Date: Wednesday October 4, 2023

Meeting Time: 08:30 a.m.

Location: El Centro City Council Chambers
1275 W. Main Street
El Centro, CA 92243

COMMISSIONERS

CITY
Maria Nava-Froelich, Chair
CITY
Javier Moreno, Vice-Chair
COUNTY
Michael W. Kelley
COUNTY
Ryan E. Kelley
PUBLIC
David H. West



ALTERNATES

CITY
Robert Amparano
COUNTY
Jesus E. Escobar
PUBLIC
Jose Landeros

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EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL
Steve Walker

SUMMARY OF THE LAFCO HEARING

August 24, 2023

8:30 a.m.

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

| | |
|---|--|
| VOTING COMMISSIONERS PRESENT: | Maria Nava-Froelich, Chair Javier Moreno, Vice-Chair Michael W. Kelley Ryan E. Kelley Jose Landeros |
| ALTERNATE COMMISSIONERS PRESENT: | NONE |
| ABSENT: | David H. West |
| STAFF PRESENT: | Jurg Heuberger, Executive Officer Julie Carter, Accountant Paula Graf, Sr. Analyst Lori Zinn, Clerk / 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 Item:**
A. Minutes from May 25, 2023

Legal Counsel Steve Walker made a clarification on the minutes as to what action was actually taken. The action taken was to approve the initial Study and asked that the preparation of a negative draft declaration be prepared for circulation.

Motion by Commissioner Michael Kelley to approve the Minutes from May 25, 2023 with the clarification made by Legal Counsel

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: RYAN E. KELLEY
ABSENT: WEST

3. **Approval of Consent Item:**
B. Minutes from June 26, 2023

Motion by Commissioner Michael Kelley to approve the Minutes from June 26, 2023

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: RYAN E. KELLEY
ABSENT: WEST

3. **Approval of Consent Item:**
C. Project Report update

Motion by Commissioner Michael Kelley to approve the Project Report

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, RYAN E. KELLEY, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

4. **Public Comments:**

Calexico resident Blanca Morales filed a complaint with the Commission about some concerns with Heffernan Memorial Healthcare District, as well as passed out a packet of supporting documents.

El Centro City Attorney Elizabeth Martyn verified if the Commission received the letter regarding records that she is seeking from LAFCO and the Pioneers Memorial Hospital District.

ANNOUNCEMENTS

5A. Announcements by the Commissioners.

Commissioner Michael Kelley let everyone know that he is on a panel for the upcoming CALAFCO Annual Conference. He is also on a special Ad Hoc Committee concerning the rebranding of LAFCO, in which they will be coming up with a catchy name and emblem to really reflect on what LAFCOs in the State of California and CALAFCO is all about, and the important role they play in the community.

Commissioner Froelich reported that she will be attending the CALAFCO Conference in October. She shared that the City of Calipatria is moving, pressing really hard regarding some projects that they are working on, and preparing for the Lithium community benefits that are coming. She recognized the County of Imperial for supporting the recovery process for the data loss that happened with the City of Calipatria.

5B. Announcements by the Executive Officer.

- i. CALAFCO Annual Conference
- ii. Special District Representation on LAFCO

Executive Officer Jurg Heuberger announced that the panel that Mike Kelley will be on at the Annual CALAFCO Conference would be on Thursday at 1:30 pm, for anyone that would like to attend that session. He let the Commission know that they have been registered for the conference, and that travel arrangements have or are being made. He shared that we have been approached by a couple of representatives and special districts to start the process to get special districts seated on LAFCO, which will be one of your upcoming items on the agenda. He also shared that during this last storm, the LAFCO building suffered some damage, in which we need to assess and get estimates for the repairs.

DISCUSSION/ACTION/DIRECTION ITEM(S)

- 6. Discussion/Action/Direction to consider the Municipal Service Review/Service Area Plan for the Salton Community Service District, the recent passage of a Proposition 218 rate increase, and to make a determination on the Commissions prior direction at the August 25, 2022 meeting to Commence the Initiation to dissolve the district pursuant to Resolution #2022-06.**

Executive Officer Mr. Heuberger provided an update on the Salton Community Services District. The Finance Officer for the Salton Community Services District and a Calexico resident made comments.

The Commission discussed the item, and the following action was taken.

Motion by Commissioner Michael Kelley to continue the hearing to October 4, 2023 to allow the SCSB Board of Directors an opportunity to attend and provide input

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, RYAN E. KELLEY, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

- 7. Discussion/Action/Direction regarding an update on the Master Tax Sharing Study.**

Sr. Analyst Paula Graf provided an update on the Master Tax Sharing Study. Executive Officer Jurg Heuberger and the City Managers of Calexico, El Centro, Brawley, and Imperial made comments.

The Commission discussed the item, but no action was taken.

- 8. Discussion/Action/Direction regarding an update on Assembly Bill 918 and the current progress on the application filed by the Pioneers Memorial Healthcare District.**

Executive Officer Mr. Heuberger provided an update on the progress of the application filed by the Pioneers Memorial Healthcare District.

El Centro City Manager Cedric Cesena announced that El Centro Regional Medical Center and Pioneers Memorial Healthcare District received \$28 million in distressed hospital loan funding from the State of California.

The Commission discussed the item, but no action was taken.

- 9. Discussion/Action/Direction regarding a request to Augment the 2023/2024 FY Budget to cover potential litigation.**

Executive Officer Jurg Heuberger made a request to Augment the 2023/2024 FY Budget to cover potential litigation. The City Managers for Brawley and El Centro both asked a question.

The following action was taken.

Motion by Commissioner Michael Kelley to approve the proposed Augmented Budget for Fiscal Year 2023-2024 to cover potential litigation

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST, RYAN E. KELLEY

10. Discussion/Direction/Accept the Audited Financial Statements for Fiscal Year Ending June 30, 2022.

Executive Officer Jurg Heuberger presented the Audited Financial Statements.

The following action was taken.

Motion by Commissioner Jose Landeros to accept the Audited Financial Statements for Fiscal Year Ending June 30, 2022

MOTION: JOSE LANDEROS
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST, RYAN E. KELLEY


EXECUTIVE SESSION ITEM(S)

- 11. Conference with Legal Counsel – Existing Litigation (Gov. Code § 54956.9) Name of Case: City of El Centro v. Imperial LAFCO case #ECU002984**
- 12. Public Employee Appointment (§ 54957) – Title: Executive Officer**

Legal Counsel Steve Walker announced that there were two items that were discussed in the closed session, but there was no reportable action at this point.

Executive Officer Jurg Heuberger just reminded everyone that the next meeting for LAFCO will not be on September 28, but that it will be on October 4.

Maria Nava-Froelich, Chair



Jurg Heuberger, Executive Officer

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LEGAL COUNSEL
Steve Walker

TRANSCRIPT OF THE LAFCO HEARING

August 24, 2023

8:30 a.m.

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VOTING COMMISSIONERS PRESENT:

Maria Nava-Froelich, Chair
Javier Moreno, Vice-Chair
Michael W. Kelley
Ryan E. Kelley
Jose Landeros

ALTERNATE COMMISSIONERS PRESENT:

NONE

ABSENT:

David H. West

STAFF PRESENT:

Jurg Heuberger, Executive Officer
Julie Carter, Accountant
Paula Graf, Sr. Analyst
Lori Zinn, Clerk / 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 Item:**
 - A. Minutes from May 25, 2023

Legal Counsel Steve Walker

I just want to clarify something. In reviewing those minutes and the context I want to make sure that the Commission is aware of the action that was actually taken. The action taken in context was to approve the Initial Study. That is what was agendaized. That was what was described to you at the start of item nine, which was on the agenda. The action taken then in context was to approve the Initial Study and asked that the preparation of a negative draft declaration be prepared for circulation.

Commissioner Froelich

Thank you.

Legal Counsel Steve Walker

If anybody has any comments on that but that was my understanding of the action taken by the board at that time.

Executive Officer Jurg Heuberger

To be absolutely clear, the approval of the minutes reflects the clarification that was released by Counsel.

Commissioner Froelich

Thank you. Correct.

Motion by Commissioner Michael Kelley to approve the Minutes from May 25, 2023 with the clarification made by Legal Counsel Steve Walker

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: RYAN E. KELLEY
ABSENT: WEST

**3. Approval of Consent Item:
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ANO: NONE
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**3. Approval of Consent Item:
C. Project Report update**

Motion by Commissioner Michael Kelley to approve the Project Report

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, RYAN E. KELLEY, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

4. Public Comments:

Commissioner Froelich

This is the time for the public to address the Commission on items that are within the jurisdiction of LAFCO but are not on the agenda. Members of the public may comment on items that are on the agenda when that term has been addressed by the board. Speaking time is limited to three minutes. The Commission is prohibited from discussing or taking any action on any item not appearing on the agenda. At this time, are there any members of the public wishing to make a public comment? Come forward please.

Blanca Morales, Calexico Resident

Good morning Commissioners. Thank you for allowing me to make this public comment. I am Blanca Morales. I am a citizen of Calexico, California. I have a packet here that I would like to present to the Commissioners. This subject is about Heffernan Healthcare District. I have been here before. Do I hand them out, there are six copies, I am not sure if I am missing one?

Executive Officer Jurg Heuberger

Sorry, ma'am, I did not hear your name, Ms. Morales?

Blanca Morales, Calexico Resident

Blanca Morales.

Executive Officer Jurg Heuberger

Thank you.

Blanca Morales, Calexico Resident

Blanca Morales from the City of Calexico representing the citizens of Calexico. At the prior LAFCO public hearing May 25, I made a public comment in regard to Heffernan Healthcare Memorial District and the issues of the district. My comments are in your minutes on the following pages, page three, and page eight. It is my understanding that LAFCO cannot take any action today about the district, and I am using this opportunity to formally file a complaint with LAFCO in my public comments with this letter and supporting documents. The district does not own any operative healthcare facilities. The primary activity of the district is grant allocations rather than management of healthcare programs. Property taxes largely support administrative overhead and benefits of the board members, employees, and independent contractors. Imperial County Grand Jury reports from 2013-2014 and from 2014-2015 highlighted deficiencies and improper spending of public funds. Mr. Heuberger, Executive Director is aware of these issues. LAFCO is responsible for the oversight of the board members and for watching the district. LAFCO bears the responsibility of holding this district accountable. The comments also include Imperial County Civil Grand Jury complaints to be filed Friday, August 25th by many property tax owners of this district. The taxpayers will not allow LAFCO to be a rubber stamp for foolish spending of public funds of Heffernan Healthcare District. According to the minutes from the District and LAFCO receiving the strategic plan from district, the proposed Urgent Clinic located at 400 Mary Avenue has been in the works now for over two years. I have four facts in the attachments that I have given to you. I have backups. I know I only have three minutes, but I would like the opportunity to come back and give you all of the backups that I have in a presentation. I think it is time that we start exposing and looking at everything that LAFCO has been doing for the past 25 years that we have not had a hospital. We do not even have an urgent care or any partnership with Brawley Pioneers and El Centro Regional. I know there are going to be some changes with the districts. I just want to get everything out in the open with Heffernan Healthcare District. This has gone on way too long, and it is unfair for the taxpayers in Calexico. Thank you.

Commissioner Froelich

Thank you very much for your comments.

Blanca Morales, Calexico Resident

Thank you, Chair Maria.

Commissioner Froelich

Thank you. Anyone else here for public comment?

Elizabeth Martyn, El Centro City Attorney

Yes.

Commissioner Froelich

On Zoom?

Elizabeth Martyn, El Centro City Attorney

Yes, please.

Commissioner Froelich

Okay, can you state your name for the record please?

Elizabeth Martyn, El Centro City Attorney

I will. My name is Elizabeth Martyn. I simply wanted to point out to you during public comment that the city handed out to you a letter regarding records that we have been seeking from LAFCO and from Pioneers Memorial Hospital District and make a note that you have received that.

Commissioner Froelich

Noted.

Elizabeth Martyn, El Centro City Attorney

Thank you very much.

Commissioner Froelich

Thank you very much. Anyone else here for public comment on Zoom? Any members of the public wishing for public comment? Hearing none, we will continue. Thank you very much.

ANNOUNCEMENTS

5A. Announcements by the Commissioners.

Commissioner Michael Kelley

In the upcoming CALAFCO Annual Conference, I have been asked to sit on a panel. The panel is Discover the Power and Synergy as LAFCO Commissioners, and staff unite in the transformation session unraveling the secret to successful collaboration where their joint efforts amplify efficiency, creativity, and community impact evaluating their partnership to unprecedented heights. It was an honor to be chosen to speak at that conference. At a Zoom meeting a few days ago, which was attended by myself, along with Jurg and Paula, I am sure I will be getting some input from them prior to the presentation. On another issue, I am on a special Ad Hoc Committee concerning the rebranding of LAFCO. As we all know nobody really knows what LAFCO is, how responsible they are to the community, and what we really do. So, we are trying to come up with a catchy name and a catchy emblem to really reflect on what LAFCOs in the State of California and CALAFCO are all about, and the important role they play in the community. We have been talking about that for a few years, and we are finally doing something about it with respect to changing it. I will be working with the committee to come up with a good slogan. That is all I have. Thank you.

Commissioner Froelich

I want to report that I will be attending the CALAFCO Conference in October. I want to share that the City of Calipatria is moving, pressing really hard regarding some shovel ready projects that we are working on, and preparing for the Lithium community benefits that are coming. I want to take a moment to recognize the County of Imperial for supporting the recovery process for the data loss that we did experience at the local level. This in turn will help us to be compliant with the State of California in regard to any additional grants that we may apply for and be in good standing. That is all I have.

5B. Announcements by the Executive Officer.

- i. CALAFCO Annual Conference
- ii. Special District Representation on LAFCO

Executive Officer Jurg Heuberger

Good morning members of the Commission and the public, Jurg Heuberger, Executive Officer. I have three announcements. First, you have already talked about the CALAFCO Annual Conference. As Mr. Mike Kelley indicated, he was asked to appear on a panel. I believe that panel is scheduled for 1:30 pm on the Thursday afternoon session. So, you might make a bookmark for those of you attending to go harass him for that panel session. I think it will be a good session. It sounds like from our discussion we had with the group a couple of days ago that it would be a worthwhile session to attend. I believe you have all been registered for the session for the conference. I believe all your travel arrangements

have or are being made. If you have any questions on any of that Julie or Paula will have the packages ready for you. So, that is item one. Item two is we have been approached by a couple of representatives and special districts to essentially work with them to resurrect the process that was started a couple of years ago to get special districts seated on LAFCO. That process is going to move forward. As I understand it, there have been some meetings between a few members, I do not believe they have been all the special districts, but several of the special districts have met and have come to some agreements or potential agreements. We have agreed to work with them, because that was your prior direction to see if special districts could be seated on LAFCO. As you recall the last effort came within a hair's breadth of getting it done, at the last-minute things fell apart, let us put it that way. So, that will be one of your upcoming items on the agenda. The last item unfortunately, during this last storm, the building we have did suffer some damage. The ceiling in the men's restroom collapsed from rain damage. We had one tree fall down, some other tree damage, and some awning damage. All of that will be repaired. So overall, it was not what we wanted, but it was not as bad as it could have been.

Commissioner Michael Kelley

Do we have budget funds to take care of that?

Executive Officer Jurg Heuberger

First we are going to have to get estimates, to see or to figure out exactly what the damage is, and where the damage was caused. I mean, we know why the damage was caused, it was from the rain leaking through a portion of the roof, but we have to figure out exactly why and then what it is going to take to fix it. Hopefully, it will not be that much, and we can do it within the current allegations.

Commissioner Michael Kelley

Okay.

Commissioner Froelich

Okay. Thank you very much.

DISCUSSION/ACTION/DIRECTION ITEM(S)

- 6. Discussion/Action/Direction to consider the Municipal Service Review/Service Area Plan for the Salton Community Service District, the recent passage of a Proposition 218 rate increase, and to make a determination on the Commissions prior direction at the August 25, 2022 meeting to Commence the Initiation to dissolve the district pursuant to Resolution #2022-06.**

Executive Officer Jurg Heuberger

Madam Chair, Commissioners, thank you again, Jurg Heuberger, Executive Officer. As you recall, back almost a year ago to the date, this Commission directed that we proceed with a notice of intent to dissolve the Salton Community Services District for a host of reasons. In part because of the state law, and in part because we wanted to give them a fair opportunity. We gave them one year to make or take corrective actions on a number of topics, and then bring it back to you for a consideration. From the past year, there have been numerous things that have happened in Salton City. To summarize, we have worked closely with the current staff of the district, along with their legal counsel. The district board and the district staff have been working with RCAC to obtain funding for much needed infrastructure and plant improvements on their sewer system. There is a lady by the name of Toby Roy that is in charge of that action for the RCAC group. We have worked with her as well as the Regional Water Quality Control Board through numerous meetings, and again, as I said, that always included the Salton Community Services District staff as well. It appears that the district is in line to receive substantial grant funds to assist in their upgrades and repairs, etc., for the various components of their sewer collection and sewer treatment system. When I say it appears, from a conversation we had with Ms. Roy about a week or so ago, I would say that the odds of getting that grant are somewhere in the 95 plus percent range. There is still paperwork to be done, there is still a lot of effort that needs to be what I would consider mostly administrative work that has to be done, some engineering and things like that, before the grant funds would be available. The projected date of getting those grant funds probably is about a year away at least, but it is in the pipeline. That was one of the key factors that we looked at when we decided to bring this back to you with a recommendation. The other thing

is the district has adopted policies that we asked them to adopt, operational policies, personnel policies, things of that nature. The district has achieved a relatively balanced financial budget for this year. That is, in part largely due to the thanks of the prior Executive Officer they had, Mr. David Dale. So, from a financial standpoint they are in significantly better shape than they were when we gave them notice a year ago. I will emphasize they are not out of the woods. The reason I say this is because in part, the actions that they have taken included doing an Analysis or Rate Study to determine what their rate should be. They went through the required proposition 218 process to get a public vote on that rate increase. The public voted to approve the prop 218 process. Keep in mind, the 218 process is a reverse process. It is not an approval for yay I approve; it is more of an objection vote. There were not enough votes to kill the votes, so it passed. It then went to their Board of Directors and passed three to two. Three board members voted in favor of the rate increase, and two board members did not. That has resulted in another lawsuit against the district, which in effect jeopardizes the rate increase. However, because it is a court action, we do not know the outcome of that, and we cannot make a recommendation or decision to your board based on speculation as to what that outcome will be. So, we are taking the position that the rate increase passed by their board takes care of the financial side of the problem that we identified a year ago. If that rate increase nullifies through legal action, they along with us will have a problem because we will then be back to somewhat similar circumstances we were a year ago. But again, we do not operate on speculation. So, our recommendation at this point of time is that we do not dissolve the district at this time, that we allow them to proceed in what I would consider a probationary status, meaning that we will keep an eye on them, and if all things work out for the best, great, if they don't then LAFCO still has the authority and the responsibility to dissolve them at a later date. But in the meantime, we can see what the outcome of the litigation is, and if it does not pass or does not prevail, then hopefully the grant funds and the improvements that we think are being made will take care of the problem. With that, we have three options for you like we generally do. Option number one, which is our recommendation that we do not dissolve them at this point and put them on probation. Option two is you do have the opportunity after public testimony to still dissolve them if this Commission so decides. Option three, as always, and although it is not something we desire to do, it might be necessary, that is why we always included an option to continue the hearing. Again, we are not recommending that, but we never know what the public comment is. So, with that, if there are questions, I will be happy to answer them or try to answer them.

Commissioner Froelich
Okay.

Commissioner Michael Kelley
Madam Chair?

Commissioner Froelich
Go ahead.

Commissioner Michael Kelley
In the purpose of discussion, I would like to make a motion based on the recommendation of option number one, to conditionally rescind the notice of intent to dissolve the Community Services District according to the partial compliance with a resolution presented by the Executive Officer. The district shall be placed on a probationary status of which the district shall provide the following: monthly accounting statements showing the revenues and expenditures, report any actions including litigation or potential litigation that could affect the district's financial health, agenda and meetings from all board meetings including special meetings, any changes in staff, and the district shall acknowledge to the resolution that they understand and agree that LAFCO may proceed with a dissolution at any time that LAFCO makes the necessary finding that the district is not in compliance, or in financial distress.

Commissioner Froelich
Okay, but I have a question. You are making the motion for option one. Will that be for 12 months? Are we going to speculate a time period for that?

Executive Officer Jurg Heuberger
No, because we cannot predict when the courts will hear the case. You know, usually courts are not the speediest thing in the world. This could be several months down the road before we have that

outcome. During this process, unless, again, the court somehow intervenes, the district is moving forward with the applications and the paperwork to finish the grant process. We are working closely with not only the grants folks, but the district staff. Based on option one, what we are saying is, let us let them continue on for the time being. Let us do a monthly reporting requirement that we have with them and our staff, primarily Paula, but Julie more importantly, because she is the financial guru in our office, as we will be looking at their financials on a routine basis. If we see that there is a hiccup, we can always bring it back to your next meeting, or have a special meeting, but I do not think that is going to be the case. It is mostly going to be a situation of wait and see, to be honest. Like I said, absent any of these litigation items that they have pending, we would simply say let them move forward, but still keep tabs on them to make sure that things go as we think they should go.

Commissioner Froelich

Okay, but before we take it to the vote, I am going to allow for public comment at this time regarding this item. Come forward please.

Christina Sutton, SCSD Finance Officer

Good morning, I am Christina Sutton. I am the Finance Officer for Salton Community Services District. Thank you for letting me speak. As of July 6, 2022, myself, along with the Pun Group have worked extremely long hours putting the district's financial records in order. I am not here this morning to stand before you to talk about the financial disarray the district's records and finances were in, but to voice my extreme concern about the future of the district. The current administrative staff including myself believe the district should be dissolved. Salton Community Services District has had a history of good buddy deals, you scratch my back, and I will scratch yours from the governing body to the general managers. It is extremely important to the success of the district to have a governing body with the district's best interest as their agenda and not their own. The district's past and present show that that has not always been the case for the most part. This district needs a professional governance in order to serve its community residents to the best of its ability. Salton Community Services District scope, as you know, is sewer, public parks, streetlights, fire, and solid waste. I cannot speak to the previous administration's decisions or actions that include the previous governing body, but I can speak to what I have experienced, and none of it has been good. I believe with having an outside qualified governing body who understands what needs to be done and how to execute, would be the best thing for this district. The small-town politics has muddied the waters sort of speech. This district needs a lot of work. The employees of the district, from the administration staff to the district crew, have worked so hard to improve and put the district back on the right top. Our concern is history repeating itself. The residents of the community that the district services deserve to get what they paid for. They deserve a qualified governing body with the district's best interest in mind, and not a governing body with personal agendas. In closing, I could go on and on, but the point I am desperately trying to make and plea to you is the following. Even though the district's rate increase passed and is currently being challenged, even though the financial records are fixed, even though the current administration is honest and dedicated to their jobs and has the best interests of the district at heart, we are not always going to be here. The governing body will continue to change as well. We have had more oversight now than the district has ever had, because this administration wants the transparency and wants to be held accountable. Salton Community Services District needs to be dissolved. The district needs a professional governance for the district to operate effectively and efficiently. The cycle needs to be broken. I know what I am saying is not the popular thing to say, but it is the truth. Thank you.

Commissioner Froelich

Thank you for your comments. Anyone else here for public comment on this item?

Esperanza Colio-Warren, Calexico Resident

Good morning everyone, I am Esperanza Colio-Warren. I am speaking as a citizen, not as a city manager just for the record. With the County I had 18 years working with the County dealing with the small districts. Former bosses are over here, they know well, and my former boss too, and they know that for many years we work with the special districts. We did not impose ourselves to the special districts. What we did, we created MOUs to assist them so they can survive. It is so important for the districts to survive because they become a detriment to the County of Imperial, because the County will be held responsible to acquire another district that is going to cost their pockets. I am not in favor of dissolving a district. What I will suggest and recommend is to provide technical assistance because sometimes what happens is there is no experience in dealing with grant writing reports and everything.

The County in the previous years have been able to assist them so they can survive. We do not want another district failing so the County can pay for it. Everybody has this idea that the County has the obligation to pay for failures and districts, and then we incur more and more debt for those special districts. Take for example, Niland, take for example, Poe Colonia, they are failing in almost all of the districts. I think a call needs to be made, so that someone creates a program or hires someone that really helps those districts to move forward and so they can secure funding. There is so much funding available to upgrade those facilities, so it does not cost too much to the very low-income families that live in those special districts. That is my input. Thank you.

Commissioner Froelich

Thank you for your comment. Anyone else for public comment on this item, regarding the Salton City? How about on Zoom, anyone on this item on Salton City? Hearing none, bring it back to the Commissioners.

Commissioner Michael Kelley

Well, my motion stands and then based on a lot of what Esperanza Colio said, I think we should give them an opportunity to see if they can stand up to the plate and continue to operate their district as they should. We are the oversight, so inside political backstabbing or what have you, we will be able to identify that and then that will lead us into possibly or ultimately dissolving the community.

Commissioner Froelich

Right. I want to say that LAFCO is not in the business of wanting to dissolve the districts, we want them to thrive, but we also have the responsibility to make sure that they are solvent. We are going to put them on a probationary period, just like we did Heffernan. We have to continue overseeing them and then come back if necessary and impose a probationary period. But during that time, we do not want to set them up for failure, because we owe it to the residents there. Sometimes, even though we do not want to lay the responsibility on the County, but from a personal perspective, a former resident of Niland, when the County did take over the fire department, because LAFCO did have to dissolve, it was one of the best things that did happen to Niland. And when we also had to dissolve the Niland Sanitary, it was the best thing that happened too. They were insolvent, and a lot of the board members did not know what they were doing, a lot of them did, and were making decisions and taking a lot of work upon themselves. Now that Niland Sanitary is under the County, County has the professional people, and the ability to apply for grants. So, in my perspective, Niland is thriving. Where we have other issues like the housing and all the other things that are coming as far as to stimulate the economy in the housing development there, at least they are in good standing as far as the infrastructure of the sanitary and fire department. Same thing here with Salton City. Those are my comments. At this time do any other Commissioners want to comment? Go ahead, Mr. Kelley.

Commissioner Ryan E. Kelley

Thank you, Madam Chair. I would ask that the motion be deferred, and this come back to the next LAFCO meeting. That the opportunity for the Salton Community Services District elected board present themselves publicly and make a case of why it should not be dissolved. To be able to hear the other side from their point of view. I respect Ms. Colio-Warren's presentation. Her position is currently floated, so anybody interested in being a Deputy Executive for the County that is going to work with special districts, those applications are being submitted today. But, even in her tenure, all these conditions were happening. So, the guidance, we cannot dictate to special districts, we can only try to provide information and hopefully lead them in better decisions. The situation that the service district finds itself, as was shared, is poor choices that have created some dissension within that community. Before we take any action to give them probation, or make a motion to dissolve, I believe that they should be responsive enough to be here, and to address those concerns to us and the public.

Commissioner Michael Kelley

Madam Chair?

Commissioner Froelich

Yes, Mr. Kelley.

Commissioner Michael Kelley

My motion will be rescinded, and I will make a motion based on option number three. I do that in light of what LAFCO and Executive Officers exist for is collaboration, cooperation, trust, and give everybody a fair, open, and apple opportunity to present their cases. So, I will rescind my first motion and insert a motion on option number three.

Commissioner Froelich

Which would be to continue the hearing not to exceed 60 days to provide additional information requested by the Commission. But before we take it to a vote, Mr. Landeros, did you have a comment on this?

Commissioner Landeros

No.

Executive Officer Jurg Heuberger

Madam Chair before you proceed with that, I respect the decision of the Commission, and that is fine. I would like to request that the motion clarify that we will continue this to the next hearing, which will be in September. What is the next hearing date? That we officially and formally invite the board of directors from the Salton Community Services District to be present, not that we can force them, but that we invite them, and that we will continue the public hearing at that time whether they are here or not. Is that a fair representation?

Commissioner Froelich

Yeah, but why weren't they here today? They knew this item was before them.

Executive Officer Jurg Heuberger

Well, again, we can lead a horse to water as they say, but we cannot make them.

Commissioner Michael Kelley

Then I will amend my motion as recommended.

Executive Officer Jurg Heuberger

Okay, and let me get the date so that we have it in record.

Legal Counsel Steve Walker

September 28.

Executive Officer Jurg Heuberger

Okay, September 28 will be that continued hearing.

Commissioner Ryan E. Kelley

I will second the motion.

Commissioner Michael Kelley

I hope I am here.

Commissioner Froelich

So, option number three is the motion.

Commissioner Froelich

Motion is carried. Thank you very much.

Executive Officer Jurg Heuberger

We will provide them with an official letter inviting them to the meeting as requested. There will be no additional notices other than our normal posting.

Commissioner Michael Kelley

Can I ask a silly question? If the LAFCO meeting could be adjusted to October the fifth, because I will not be here that entire week of the 25th of September? But that is up to this board, not me.

Executive Officer Jurg Heuberger

If the rest of this Commission is available, staff will certainly accommodate that.

Commissioner Froelich

What date did you say, October the fifth? But I will not be here because I will have a walk to school event.

Commissioner Michael Kelley

A walk to LAFCO event?

Commissioner Froelich

No, I have a children's event in Calipatria.

Commissioner Michael Kelley

Whatever is in the best interest of this Commission, I will abide by it.

Executive Officer Jurg Heuberger

Okay, so right now it is for the 28th, but is there a date other than the 28th that you can all do, so we can pick that date now and have it on public record.

Commissioner Froelich

Propose another date.

Commissioner Michael Kelley

Well, it does not have to be on a Thursday, what about on a Wednesday the fourth?

Commissioner Froelich

October the 4th.

Commissioner Ryan E. Kelley

Works for me.

Commissioner Michael Kelley

Say again.

Commissioner Ryan E. Kelley

Did you mean you are going to be gone that whole week?

Commissioner Michael Kelley

Yeah, from the 25th to the 29th.

Commissioner Froelich

Are you available October 4 Mr. Kelley?

Commissioner Ryan E. Kelley

Yeah, I am available.

Executive Officer Jurg Heuberger

Mr. Moreno?

Commissioner Moreno

Yes.

Executive Officer Jurg Heuberger

Mr. Landeros?

Commissioner Landeros

But a wrinkle, I am not.

Commissioner Froelich

Okay, October the 4th.

Executive Officer Jurg Heuberger

Okay, so officially, the motion is to continue this hearing to October 4th, invite the board members from the Salton Community Services District to the meeting, and then continue on with the hearing at that point. That is your motion Mr. Michael Kelley?

Commissioner Michael Kelley

Yes, sir.

Motion by Commissioner Michael Kelley to continue the hearing to October 4, 2023 to allow the SCSO Board of Directors an opportunity to attend and provide input

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, RYAN E. KELLEY, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST

7. Discussion/Action/Direction regarding an update on the Master Tax Sharing Study.

Executive Officer Jurg Heuberger

Madam Chair, with your permission, I would like to have my Assistant Ms. Paula Graf present this to you.

Commissioner Froelich

Okay.

Commissioner Ryan E. Kelley

Did we take a vote on the last item?

Commissioner Froelich

Yes, but it was amended just for the date. Yes, it was voted on. Okay, Paula.

Sr. Analyst Paula Graf

Good morning Commissioners and members of the public. My name is Paula Graf. I am a Senior Analyst here at LAFCO. This item is, excuse me, I am a little nervous, so bear with me. This item is an update on the Master Tax Sharing Study. Your commission back in early of 2021 directed staff to place a hold on processing annexation applications until a Master Tax Study was completed. We, LAFCO staff with the agreement of the cities and the County of Imperial retained a consultant. The consultant over about I would say about a year and a half met with both the County, the cities, and LAFCO, produced a draft Study that was commented on, and the agencies were able to provide input on the Study. That Study was completed in December of 2022. The County and the cities were then tasked to start negotiations amongst each other. As of today, I believe the County of Imperial has provided an update that they are working with two of the cities. The current status on annexation applications right now is that we continue to receive annexation applications, but they will be placed on a hold status until an agreement between the County and the cities is completed. That is my update, if you have any questions.

Commissioner Froelich

I have a question. Is this coming before us, ready for us to take action on it?

Sr. Analyst Paula Graf

No, no action is being requested. This is just an update on where we stand as far as annexation applications. There is no existing Master Tax Study between any of the agencies at this time. They are currently in negotiations.

Commissioner Froelich

Okay. My concern is with all the cities moving forward in regard to their projects in regard to their economic development because there are so many projects on hold for annexations.

Sr. Analyst Paula Graf

So, with that said, we are accepting applications and we are going through the review process, but it cannot move forward or be before your Commission for action until that agreement is in place.

Commissioner Froelich

That is good. We actually do prefer at the LAFCO level that everything is ironed out between the County, the cities, and LAFCO before it comes to us. So, at this time, we will take public comment on this item.

Esperanza Colio-Warren, Calexico City Manager

Esperanza Colio-Warren, City Manager for the City of Calexico. Quick question. I know that all the cities are in different positions regarding the tax agreement to finalize the document. Technically this Master Agreement has not been completed, because some of us have failed. And I quote failed in my case to negotiate with the County. There are different variances in each one of the cities for negotiations, and that makes it difficult for each one of us. We had that understanding. My city is going to take a while because for once we do not foresee any upcoming annexations. So, I am just going to take my time a little bit, because I have very urgent matters in the city that need to be solved immediately, otherwise the city will be in trouble. Now, does that mean that I am going to jeopardize the City or El Centro or the City of Brawley, because I have not completed my portion? That is a question that I want to ask. Also, to comment that when the Study was done, and I hope that this is the case, when we agreed that the Study was completed at that phase, it was only for the door to be open to continue negotiations with the County. The reason is because all the cities have different variables. I am going to give you an example, for everybody to understand why it is so crucial for each one of us individually to negotiate with the County. The City of Calexico does not have an investigation unit at the police department; therefore, the investigations will go to the County. We agree with that. The City of El Centro does its own. So, that is a variable in terms of cost and the final percentage for the city. That is just one example. So, it is difficult for each one of the cities to come to the table and negotiate with the County. Now bear in mind the following. If the cost is so high for the cities, when negotiations happen with a city and the County, what is the benefit for a city to expand an area when the County is going to pay 60% of their property taxes and ask 40%, and the cities now are obligated to provide police officers, fire services, public works, so it is really not an encouragement. I just want somebody to think about what the benefit for a city is to expand when our shared portion is the lowest but the highest cost in our city. I just want to think things in perspective. It is very hard, especially for the City of Calexico, to come to this negotiations right now, but I will get there if I am still employed. I will get there to work with the County. I just want someone to help me to understand why we have to share such a high portion for the County. I just do not think it is fair. There is no encouragement for cities to expand if that is the case. Thank you.

Commissioner Froelich

Noted Ms. Colio.

Sr. Analyst Paula Graf

To answer your question on if Calexico is delaying any projects, no, each city is able to negotiate an individual agreement with the County, so you would not be holding up any projects.

Commissioner Froelich

Thank you. Anyone else here for public comment on this item?

Cedric Cesena, El Centro City Manager

Good morning Commissioners, Executive Director, and Executive Director Pro-Tem. I do want to share some thoughts in relation to this particular item from the perspective of the City of El Centro.

Commissioner Michael Kelley

Please state your name for the record.

Cedric Cesena, El Centro City Manager

Cedric Cesena, City of El Centro. Thank you, sir, for the reminder. As we joined forces to have an independent Study done in order to move forward to negotiations with the County, the Study initially on the onset was supposed to be an independent Study that was fair and equitable to all involved. That is why most of the cities or all the cities actually shared in on the cost for the scope of work. In conversations with the consultant of BAE Economics, it was discovered that the way they were working towards the goal was revenue neutrality for the County, and making the County whole, which seems a little bit unfair. The city provides services, just like Esperanza mentioned earlier to our citizens, and I will not go into those details, however, for example, the sheriffs do not control the city. Most of the time, probably four to one if not more, the City of El Centro provides mutual aid services, like most of the other cities in this County to the County. Our parks and recreation facilities are widely used by the citizens of El Centro, they are also used by citizens of the County. In addition to that, it seems like being neutral towards the County seems like an unfair stance. The current draft of the Study provides a basis for additional imposition of fiscal cost on annexations to the city. So, it is important to remember that you know if this is going to create additional costs, it certainly is going to stall me, and we are not going to move forward with development and economic growth. And the city is growing. So, we feel that there are errors in the Study that are going to be affecting all of our cities. In some of the examples when you analyze the Study itself, you can see that. Singling out the City of Imperial for example, the analysis results in the County's cost for services retail at \$18,000 in comparison to the city's cost of \$7,000. If the city is providing services that seems a little bit in favor of the County. Also, in the BAE study is talk about the potential for any annexations that come before you that may require the formation of CFDs to provide for the annexed areas to pay additional amounts to the County. Again, it just seems that it is an unfortunate erroneous Study that has been done. Lastly, when we met with BAE studies recently, probably within the last six months or so, BAE actually admitted that there were flaws in the Study, and they had to rework the numbers for the City of El Centro. I am not too sure that that has been done for the other cities, but they had to actually recalculate numbers for us, and that was a great concern. So, although we disagree with the Study, we do plan to actually move forward with negotiating with the County. I think these are two separate items. The Study does not necessarily have anything to do with the negotiation between the City of El Centro and the County. Thank you for your time.

Commissioner Froelich

Thank you very much for your comment. Anyone else here for public comment on this item?

Executive Officer Jurg Heuberger

Yes Madam Chair, Jurg Heuberger, Executive Officer. I just want to clarify something. When this process started, your Commission directed that we place all applications on hold because tax agreements on a case-by-case basis were taking as long as two years to negotiate between the city and the County. It is different for each city. Your Commission at that time said, this is unfair to applicants, makes no sense, and why is it taking so long? Historically, you have to remember there was a Master Agreement where all the cities had the same agreement with the County. Setting the stage for that, the city managers and the County managers got together and started talking about doing this Study. They came to the conclusion that if any one of them prepared the Study, it would not be accepted by the others. By default, they came to LAFCO. The City Mayor of the City of El Centro at the time, along with the city attorney and the city staff came to LAFCO and the County Executive Office and said, LAFCO can do the Study for all of us, and we will pay for it, we the cities and the County. That is how we got into this. The next step as Paula mentioned and as Ms. Colio's already mentioned, virtually every month there was a meeting with the consultant, the city managers, and the County managers. Continued updates and continued requests for information were asked. The consultant can only do the work based on the information that was given to the consultant. Jumping to the end of the Study, we had a meeting where all the city managers and the County managers were there. Mr. Cedric was not there, but the previous city manager was there. I made a point of asking individually, every city manager, do you have a problem with the Study, or do you agree with it? Everyone said they agreed with it. At the end of that, I said, okay, let us try this one more time, and let us give you another month to think about it. Go back and talk to your councils, because I know darn well that you as city managers do not have the final say so. Come back in 30 days and tell me the Study's okay and we will wrap it up. Unanimously, all of them said yes. So, at that point in time there were no issues with any city about the Study being enacted. Now, subsequently, a city came to us

and asked us to reconsider the Study. I said no, but we will give you the opportunity, you the City of El Centro to talk to our consultant, and if there are errors, he will fix them. But bear in mind, the information that was given to the consultant is what the consultant used. He did not fabricate it. It was given to us. If it was given to us in error, so be it. It is the old saying garbage in garbage out. So, if you gave us the wrong information, expect the wrong answer to come out. There was not any intent on the consultant or on LAFCO. We got in the middle of this because the cities and the County could not agree to do it on their own. The last thing I want to tell you is this Commission, and I do not mean you as Commissioners, but this Commission 15 or 20 years ago faced the same problem. At that point in time, we were following the Cortese-Knox process by not accepting an application in our office until the negotiations had already occurred for taxes between the agencies. Now, keep in mind what that does, which is what the law currently says. What that does is the County, and the cities would negotiate on a project. By the time it came to us, and they would agree to a Tax Sharing Agreement, by the time it came to us that project had changed two or three iterations. You are all familiar with the land use process. We start off with I want to build 500 homes, but you quickly find out that you cannot do 500, you can only do 300. When it came to us, we were constantly faced with having a developer standing here saying, well, the County and the city agree to the taxes, and the County would say yeah, but that is not the project you told us about, that is not what we agreed to, and it would be back to square one. We ended up in a position of either litigating against cities or coming up with a new process. So, we came up with a new process. We said, okay, yeah, the law says we should not accept applications until we have a Tax Sharing Agreement, but how about we do this? How about we work with the cities under the CEQA process as co-lead agencies, and we as LAFCO work with the cities through the entire process, so that when it comes to us, we have a good CEQA process, and everybody knows what the project is. Then you guys go sign the Tax Sharing Agreement, because at that point in time, the city, the County, and the developer, theoretically are looking at the same project. So, it does not exactly fit the law, but it works. That is how our process works. If we do not have a Master Agreement, you are back to doing individual, and that is fine with staff, to be honest with you. It is not too good for developers, because it will delay projects. The idea of having a Master Agreement gives certainty to a developer within this County, knowing what the rules are at the end of the game. I think that is what most of your council and board have said. Developers should have an understanding of what to expect when they walk in here, it should not be a surprise. Now whether this Study needs to be adjusted, okay, if the consultant got the wrong information, no problem, he can fix it. The key issue here is that each city, and again, when we started this Study, one of the things became readily apparent is we have pretty large cities or small cities, and the old saying that one shoe does not fit all, came to mind. So, we immediately said at the end of this Study, there could be one overall agreement, there could be a small city / large city agreement, or there could be seven agreements. Into this Study, everybody said, yeah, let us just do seven agreements, because as Ms. Colio said Calexico has different issues than El Centro, and different issues than Calipatria. That makes sense and we allowed for that. So, each of those cities still has that opportunity to go to the County and say, okay, you know, we both agree that this Study has a mistake in it, let us do whatever with it, and let us come to an agreement. But the issue here is let us get these agreements done, because we do have applications pending.

Commissioner Froelich

Mr. Heuberger, I have a comment and a question for you before you leave. I have been told that it does seem like it favors the County. I understand that County has vested interest. The cities have vested interest when they want to annex. Can we override the 60/40 to be split right down the middle 50/50. For an example, is there something that we can do?

Executive Officer Jurg Heuberger

No, let me make it really clear. LAFCO has no authority or involvement in the outcome of a tax sharing agreement between the entities. We cannot tell them what to do. We do not have the authority to do that.

Commissioner Froelich

I was referring to the master plan.

Executive Officer Jurg Heuberger

Let me address something. Mr. Cedric pointed out revenue neutrality. If you go back to the Cortese-Knox, there are several sections that talk about revenue neutrality. What the Study did and what was asked to be done is revenue neutrality. Now, what that says is you cannot impose a financial burden

on another agency because of something you want to do, you the city. Keep in mind something and you know, I get frustrated at this, as you can probably detect it in my tone, but here is what happens. The cities are in charge of land use when it comes to annexations. They decide what project to approve. That project goes through a process, CEQA for example. In the end, that project can and more often than not has an impact on the County, because you're taking land from unincorporated into incorporation. I will give you a good example of a case called traffic. None of us down here only drive on a city street. None of us only drive on a county street. So, any project you annex is going to have an impact on traffic in both the city and the County. That is where the disagreement comes in. What the Study said was, the County to be neutral is a mandate, and the city has the opportunity to be revenue neutral also. That means they have to impose conditions on the project to pay for those impacts. If the city is not willing to do that, then they do not have to be revenue neutral, they can decide to go into debt. But you cannot force the County any more than the County can force the city to go into debt. That is what revenue neutrality is.

Commissioner Froelich

Understood. So, with what you are saying right now, some of these projects have been on hold for two and a half years. Are we able to approve the master plan to press forward and then allow the cities and the County to negotiate? What are you recommending?

Executive Officer Jurg Heuberger

What I am saying is the law actually says we should not even accept the application for an annexation until that tax agreement is finalized. You as a Commission, your predecessors here told me, let us figure out some way where you can work in parallel with the city, because otherwise here is what happens. If you go by the strict interpretation of law, if Mr. Moreno here comes to me and says I want to annex, then I am going to say go to the City of Calexico. The city will put him through the middle of going through a Land Use Entitlement. Then the city and the County are going to get together, however long it takes, to come up with a tax agreement. Only then would it come to me. Then my process starts. So, now you have a clock over here for Land Use Entitlement, we have a clock over here for Tax Sharing Agreements, and now you have a clock for LAFCO. What your commission years ago said is let us put that one clock as one clock, so that everything goes in parallel as opposed to serial. That is as Executive Officer my only interest at that time, and still is. It makes more sense if I was on the other side of the table, and you folks know I am on the other end of the table on projects. From a developer standpoint, serialized processing is insane. It already takes long enough to go over the CEQA process and everything else, and then on top of that, you say, okay, now we are going to add another 60, 90, or 120 days to LAFCO. When in reality, we could be at the same concluding date 60, 90, or even 180 days closer together.

Commissioner Froelich

Understood.

Executive Officer Jurg Heuberger

Sorry to be so adamant and whatever, but you know.

Commissioner Michael Kelley

But we still need a Tax Sharing Agreement.

Executive Officer Jurg Heuberger

The law prevents us from presenting you an application without the Tax Sharing Agreement signed. You know, we have in the past told the cities and the County, look if you just tell us that you are going to sign it, we will schedule it. Just compress that box and more. But in reality, we should have the agreement on our desk before we do.

Commissioner Michael Kelley

So, the cities and the County have not come up to an Agreement?

Executive Officer Jurg Heuberger

You guys need to get together, how is that?

Commissioner Froelich

But we should give them a deadline so all these projects will not be on hold, so they can move forward.

Executive Officer Jurg Heuberger

It is as Paula mentioned, every city is on their own, and so the deadline is their choice. Now, whether the city and the County can come to terms is beyond this Commission's ability to control. We can encourage then, we can push, which is why we are routinely sending memos saying hey city manager, hey County manager, where the heck are you?

Commissioner Froelich

Mr. Heuberger, your three minutes are up. Anyone else here for public comment?

Tyler Salcido, Brawley City Manager

Thank you. Tyler Salcido, City Manager of the City of Brawley. For the record, I just wanted to comment that Cedric and I have the same tailor. I agree with most of what Mr. Heuberger said. At the time that this all started I was the newbie in the room as far as city managers. Now I am one of the longest tenured ones in the room. I was a little naive in thinking what this was. I will take full responsibility of that. What I understood the Study to be and from our perspective, and when I say our, I want to say the folks that were in the room at the time, from the city manager's point of view was we agree Master Tax Sharing Agreements are the route to go. Look around the room at the city manager meetings, none of us have the time to really ramrod this, so if LAFCO is willing to do it, that sounds like a great idea. But from the beginning, my perspective was how is it possible to have a win win with the County and the city? LAFCO found the consultant, all good, all that stuff. As far as accepting it, I have never presented it to my board, because all I thought was originally it was just a little baseline to start conversations. I believe we are one of the cities you are referring to, we have an annexation that is going through the works. Miguel and his staff have reached out to us to begin negotiations and we had a meeting. It was interesting that BAE was their representative at that meeting, which was the first light that went on for me. I would say the negotiations are in our court, ours being the city. I have conducted my own Study that I am working through to get our fiscal impacts. From our perspective we need this Master Tax Agreement, but it is my responsibility to make or recommend to the city. If it does not pencil out, it does not pencil out, and I will not move forward. So overall, I agree with the way the process went, but we as the City of Brawley have never accepted the Study. It was my understanding that it was just the Study of baseline. Again, I was naive to think that it was going to be a win win or as much as possible. How do we mitigate the impacts for both sides? With that being said, we will negotiate with the County, and everyone is going to be onboard, above board on things, and if we can come to agreement, we come to agreement, if not, my recommendation is no. I want to say that was not my perspective that that Study was going to be accepted, and that is how we were going to divvy up the pie.

Commissioner Froelich

The sooner the better.

Tyler Salcido, Brawley City Manager

Yeah. But as I said, it is in my court, because Miguel has reached out and his staff reached out. I said, give me some time because I am not sure what all my impacts are, and I want to have all the facts as best I can understand them for when we go to negotiate. We have biweekly meetings with the city and the developer, and they are aware that currently, I am the hold up.

Commissioner Froelich

I think that the County is changing and growing. We are growing as a whole. The cities are growing, a lot of them are growing, not just the City of Imperial, everyone is growing. Us little cities, we want to grow too. We are following all of you big cities as an example, we look up to all of you, and of course, we lean on the County too for support. We are here, we want the best interests of both the County and the cities to come to an agreement on the Master Sharing so that we can support at the LAFCO level, the annexations.

Commissioner Michael Kelley

Yeah, but I think like Jurg said, the direction, the avenue was going back to the old way, cities and County negotiate for Tax Sharing Agreements, and there will be no Master Tax Sharing Agreement, it will just be independent, individual cities and the County.

Tyler Salcido, Brawley City Manager

Well, my understanding was that being that every city is a little different, that it was going to be we are negotiating for a Master Tax Sharing Agreement with like, for example, City of Brawley and the County will have a Master Tax Sharing Agreement for any annexation that comes in.

Commissioner Michael Kelley

In Brawley only.

Tyler Salcido, Brawley City Manager

Yes. But that is my understanding. So, like the next annexation after this, say Rancho Los Lagos, the Master Tax Sharing Agreement will already be there, so we do not have to go individually, individually, that is my understanding.

Commissioner Michael Kelley

Currently it is going back to the old way, which extends the amount of time necessary, right?

Executive Officer Jurg Heuberger

No, it is not, Tyler is correct. It is a Master Agreement between that city and the County. If Tyler goes to Miguel and the board approves, and the council approves, there will be a formula for residential, commercial, and industrial type of annexations. So, let us say they agree to that agreement, from then on in for whatever term they signed that agreement for, it could be 3 years, 5 years, or 10 years, I don't know what they are negotiating for, but it will set the stage for Brawley for the next annexations until that agreement expires, or it is voided for some other reason. I agree with Tyler, the Study was not intended to dictate to either the County or the city that you had to abide by those numbers. It was simply an information document. Because what was happening is the County was saying I want this this and this, and the city was saying, well, I am not going to give this this and that, and I do not have to. They came to loggerheads, and I understand that. The Study was designed to do a show where this tax money actually goes. When a project comes in how much tax is generated, and where does it go? Like I said, the key issue is you cannot impact other agencies financially. The emphasis here is, and I will put it even more bluntly, we as LAFCO cannot approve an annexation, until those two agencies agree to either be revenue neutral, or one or the other takes a loss. But that is their choice, we cannot dictate to them.

Commissioner Froelich

In the meanwhile, though Jurg, if the city and County agree and reach an agreement, when it comes to us we do not have to hold it as they already came to an agreement.

Executive Officer Jurg Heuberger

When the annexation comes before us, and they have already signed the agreement, it is just a check mark that they have complied with the law. What they agreed to financially, like I said, is their problem. We are not telling them. Let me make it even more clear. Let us say Tyler and Miguel sit down and they come to an agreement that from now on the County is going to get 100% of the revenue, so that they are always not losing any money, and the City of Brawley is willing to take a loss on a project. That is the city council's fault. When it comes to you, too bad, you cannot say anything, because the city council has decided for their city that they are willing to take that loss. Might not be a good idea, but it is not our problem.

Commissioner Michael Kelley

We just make sure that there are services and infrastructure to justify the annexation.

Executive Officer Jurg Heuberger

It is really a situation where the cities have the land use authority. As Tyler just pointed out, he is not going to recommend that his city council approve a project that is going to put them in debt. They have enough problems financially without doing stuff like that. I would expect when Tyler negotiates with

the County and they come to some terms, he is not going to give up farms for Brawley. Now, assume that they fight it out. In the end, though, the city has the ability to take and talk to the developer and say your project is creating an impact on us, the only way we can approve this project is if you pay for it, and that is where the rug has come in. That has always been the problem, because councils and board of supervisors do not want to tell developers they have to pay things sometimes.

Commissioner Froelich

Okay. Anyone else here for public comment on this item? How about on Zoom, anyone else? Bring it back. I think I see somebody; no. One person and then will bring it back to the Commissioners. Go ahead. Go ahead on Zoom, Daniela.

Commissioner Michael Kelley

Dennis Morita.

Commissioner Froelich

Dennis Morita.

Dennis Morita, Imperial City Manager

Dennis Morita, City Manager of Imperial. Thank you. I will just take a minute or two. Thank you LAFCO board and staff for this opportunity. I just want to be clear about what Imperial's intent is. Imperial's intent is indeed to reach an agreement with the County. My observation for what it is worth, and I am sure that I do not have the complete picture, but my sense is that this issue came into some focus with a commercial annexation in the City of El Centro, and that it became about more than just about how a property tax was going to be divided. I think one thing we all agree on is that whatever the property tax is, it is not sufficient to pay all the services that the County will continue to provide after the annexation. That the city will be called upon to provide after the annexation to the extent that other fees come into the picture. I think it may have muddied the water. But in doing that, I think it illustrates the point that Mr. Heuberger is making, that there are costs of development. I get from the developer standpoint if you say that they are probably agnostic when it comes to division of the property tax. But when you say to them that there are continuing costs that are going to be County impacts, as well as city impacts, I could get where they are coming from when they say they feel like they are paying twice. My effort at this point is to try to make sure that at least for Imperial, we keep our eye on the ball with respect to what the issue is, and that is a division of the property tax, not forgetting that to the extent there is a shortfall that the city has to make a decision about whether it absorbs that somehow or passes those costs along. In any case, I just wanted to let County folks and Miguel know that he will be seeing more of the City of Imperial than he probably would wish for. Thank you for the opportunity.

Commissioner Froelich

Thank you for your comments. Anyone else for public comment on Zoom? Members of the public here? Okay, bring it back to the Commissioners, any comments? Would anyone like to say anything? Go ahead, Mr. Kelley.

Commissioner Ryan E. Kelley

Thank you. I have the pleasure of being on both sides of this fence. When I was a city council member in Brawley, I remember Mr. Heuberger coming to the City of Brawley asking for impacts on County roads, and I do not think I chased him that fast out of the room. This has been an issue going on and from the city's point of view that an annexation of Porter Ranch, Matthews, or Lucky Ranch in Brawley, those things, we knew there was a problem. I do like the way that Mr. Salcedo presented the path forward, the BAE Financial Study is a baseline allowing each of these agencies to negotiate with the County into the terms of what services are being provided. In regard to Mr. Morita's comment about the introduction of fees, I am going to have to learn more about that on commercial development. But if the agencies can agree that this is a baseline to be developing their own specific agreement with the County to move forward, I think that is where we need to go and focus rather than continuing to, unless there is a flaw in the Study, which if there is, then let us acknowledge it and try to correct it. It is a different situation between the cities, as Ms. Colio-Warren mentioned that Calexico offers a majority of services, but some do not, and they depend on the County. That is a different situation between all seven cities, so that needs to be balanced out. Maybe there can be a summit where you can bring these parties together, agree to the baseline, and then start scheduling these individual conversations, as Mr. Salcido has already started. Maybe the other entities can put that on their calendar so that you

can get past this, because I am well aware that there will be no annexations unless there is a Tax Sharing Agreement, as that is the law. It is outside of LAFCO's control. It is between the entities, the jurisdictions. Those are my comments.

Commissioner Froelich

Thank you Mr. Kelley. Anybody else? Commissioners any comments? Okay, so then there is no action, we are just going to continue and wait?

Sr. Analyst Paula Graf

We will provide updates as we go along.

Commissioner Froelich

Okay. Thank you, Paula.

8. Discussion/Action/Direction regarding an update on Assembly Bill 918 and the current progress on the application filed by the Pioneers Memorial Healthcare District.

Executive Officer Jurg Heuberger

I do not have an update on the Assembly Bill, but the Assemblyman's representative is here, so maybe he can give that. As far as the application that we are processing from the PMH District is concerned, we are in the midst of working on a number of components of that application. One is a fiscal analysis. The second is the compliance with the California Environmental Quality Act, along with the procedures of the Cortese-Knox Hertzberg Act. We are as diligently as possible, trying to move that forward. We did ask the El Centro Regional Medical Center / the City of El Centro to allow the consultant that they have, which I believe is Kaufman Hall, and I can't remember the other name that the city / El Centro Medical Center hired to meet with the consultant that we hired so that they would both work on a fiscal impact analysis on the same baseline. We have asked that a number of times to date. The last conversation I had with Mr. Cedric was that he was going to assist us in getting that to happen, which still has not happened. At this point in time, we are proceeding with the fiscal analysis based on the information that has been provided to us. Both Pioneers Healthcare District and the El Centro Medical Center have provided fiscal information. But the goal was to make sure that the Study that the El Centro Medical Center had commissioned just recently and our Study, uses the same baseline information to avoid exactly what you just heard five minutes ago. That is the update at this point and perhaps the Assemblyman's representative can give you an update on where they are with the bill.

Commissioner Froelich

Thank you. Is there anyone here that would like to make a public comment on this item, members of the public?

Cedric Cesena, El Centro City Manager

Cedric Cesena, City of El Centro. I just want to give you guys some good news that just hit the news about an hour ago. Both El Centro and Pioneers hospital received \$28 million each in distressed hospital loan funding from the State of California.

Commissioner Froelich

Very good. Thank you for your comment. Anyone else here for public comment on this item AB 918? How about Zoom, is there anyone wishing to speak on this item? Hearing none, bring it back to the Commissioners. Is anyone here wishing to make a comment on this item? Anything to add Mr. Jurg?

Executive Officer Jurg Heuberger

No, Madam Chair, thank you.

9. Discussion/Action/Direction regarding a request to Augment the 2023/2024 FY Budget to cover potential litigation.

Executive Officer Jurg Heuberger

So, due to the fact that we are facing litigation by the City of El Centro, which, over my last 30 some odd years of doing this, I believe this is the first time we have faced litigation, or at least litigation by a member agency. To be honest with you, I do not remember this Commission ever being sued before,

perhaps they were, but I cannot remember it. In any event, we have a line item within our budget that accounts for legal fees, which are essentially to pay for the attorney's retainers and minor services, but it does not allow for paying litigation fees. So, we are asking that we take \$40,000 out of our contingency reserve and move it into the 82-2180 professionals special legal line item so that we can pay the ongoing legal fees that we will be facing in this case.

Commissioner Michael Kelley

I make the motion for approval.

Commissioner Froelich

Okay, but before we do so, is there any comment on this item? Come forward please.

Tyler Salcido, Brawley City Manager

Tyler Salcido, City of Brawley. Just a question. As it relates to this budget, what was charged to each of the agencies, would this be an increase in this motion, or that is already part of what we paid into?

Commissioner Michael Kelley

Luckily, we have contingencies.

Commissioner Moreno

Yeah, it is already done.

Executive Officer Jurg Heuberger

I think he just answered your question. We are not seeking additional budget increases by the member agencies.

Tyler Salcido, Brawley City Manager

That is the way I read it, but I wanted to make sure.

Executive Officer Jurg Heuberger

However, Tyler since you are an accountant, I will tell you that if our budget next year gets impacted by this year's budget, the cities could face an increase. But right now, we are faced with the luxury of having some savings, and we are using those savings to offset these costs.

Tyler Salcido, Brawley City Manager

Okay.

Commissioner Froelich

Anyone else for public comment on this item? On Zoom anyone else for public comment on this item? If not, there is a motion on the table, but I wanted to ask if we can prevent it from going to court? Provide them with the documentation or whatever it is that they are asking for to resolve this matter.

Commissioner Michael Kelley

Who knows?

Commissioner Froelich

Okay, so there is a motion. Another comment? Okay, go ahead.

Cedric Cesena, El Centro City Manager

My apologies. Cedric Cesena, City of El Centro. I just want to make sure that you guys received the letter on record that we sent.

Executive Officer Jurg Heuberger

Yes.

Cedric Cesena, El Centro City Manager

Okay.

Commissioner Froelich

Yes, thank you very much. Okay, so there is a motion on the table.

Motion by Commissioner Michael Kelley to approve the proposed Augmented Budget for Fiscal Year 2023-2024 to cover potential litigation

MOTION: MICHAEL KELLEY
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST, RYAN E. KELLEY

10. Discussion/Direction/Accept the Audited Financial Statements for Fiscal Year Ending June 30, 2022.

Executive Officer Jurg Heuberger

This is simple and straightforward. These are the audited financials that we have to do every year. They were presented to you, and we are simply asking you to accept them. Unless you have questions.

Commissioner Froelich

Any comments or questions? Any members of the public wishing to comment on this item? How about on Zoom, any members of the public wishing to comment on this item? Bring it back to the Commissioners, any comments, or questions? Is there a motion to approve?

Commissioner Landeros

I move to accept.

Commissioner Froelich

Okay, there is a motion on the table by Mr. Landeros to approve.

Motion by Commissioner Jose Landeros to accept the Audited Financial Statements for Fiscal Year Ending June 30, 2022

MOTION: JOSE LANDEROS
AYES: FROELICH, MICHAEL KELLEY, MORENO, LANDEROS
ANO: NONE
ABSTAIN: NONE
ABSENT: WEST, RYAN E. KELLEY

EXECUTIVE SESSION ITEM(S)

11. Conference with Legal Counsel – Existing Litigation (Gov. Code § 54956.9) Name of Case: City of El Centro v. Imperial LAFCO case #ECU002984

12. Public Employee Appointment (§ 54957) – Title: Executive Officer

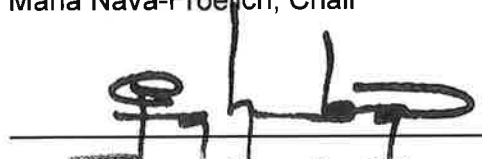
Legal Counsel Steve Walker

There are two items that were discussed in the closed session. There was no reportable action at this point.

Executive Officer Jurg Heuberger

Just a refresher for the Commission, but also for the public. The next meeting for LAFCO will not be on September 28, which would be our next regular scheduled meeting, it will be on October 4. Please note on your calendars and we will post it on our webpage as well to make sure the public understands.

Maria Nava-Froelich, Chair

A handwritten signature in black ink, appearing to read 'Jurg Heuberger', written over a horizontal line.

Jurg Heuberger, Executive Officer