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COMMISSIONERS

*CITY*

Vacant

*CITY*

Jason Jackson

*COUNTY*

Michael Kelley, Chairman

*COUNTY*

Raymond "Ray" Castillo

*PUBLIC*

David H. West,  
Vice-Chairman

*Imperial*



ALTERNATES

*CITY*

Maria Nava-Froelich

*COUNTY*

Jesus "Jack" Terrazas

*PUBLIC*

Ralph Menvielle

[www.iclafco.com](http://www.iclafco.com)

**EXECUTIVE OFFICER**  
Jurg Heuberger, AICP, CEP

**LEGAL COUNSEL**  
Ryan D. Childers

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ACTION MINUTES OF THE REGULAR LAFCO HEARING

**March 24, 2016**

**8:30 a.m.**

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

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**VOTING COMMISSIONERS PRESENT:**

Michael Kelley, Chairman  
David West, Vice Chairman  
Jason Jackson  
Raymond Castillo  
Maria Nava-Froelich

**ALTERNATE COMMISSIONERS PRESENT:**

Jack Terrazas  
Ralph Menvielle

**(NOT VOTING)**

**ABSENT:**

None

**STAFF PRESENT:**

Jurg Heuberger, Executive Officer  
Julie Carter, Accountant  
Ryan Childers, Legal Council

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

3. Approval of Minutes from January 28, 2016

Motion by Commissioner West and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo, and West to approve the minutes as presented.

4. Approval of Consent Items:
  - A. Project Report Update

EO Mr. Heuberger stated the LAFCO is in contact with the cities in regards to projects that are listed on the project report. Dependent upon the response received by the cities, the LAFCO will either close out the projects or keep active. On the next project update several projects may be removed depending on the status update received by the cities.

No action was taken.

5. Public Comments: *None*

## ANNOUNCEMENTS

6. A. Announcements by the Commissioners.

Commissioner Castillo stated he had a conversation with Blanca Acosta, Clerk to the Board of Supervisors. Clerk Acosta has been attempting to contact the City Mayors to schedule a meeting to appoint the LAFCO City Alternate position and has not been able to get a quorum together. Commissioner Jackson stated he has not received any notification. Commissioner Froelich stated Clerk Acosta had sent out a survey. The next League of Cities meeting will be held in April and at that meeting the LAFCO City Alternate position is scheduled to be appointed.

Commissioner Froelich announced an ICTC meeting in April and also a League of Cities meeting at the Inferno restaurant in Brawley on April 14<sup>th</sup>. There was an ICTC meeting last night and the approval of an audit item is pending. On May 5<sup>th</sup> and 6<sup>th</sup> there will be a SCAGG meeting in La Quinta.

- B. Announcements by the Executive Officer.

EO Mr. Heuberger stated there will be a number of items discussed today relative to special districts. As part of the LAFCO's Municipal Service Review requirements, the LAFCO has been trying to approach the reviews with a soft hand as the reviews can get expensive. The LAFCO is trying to assist the smaller districts especially. The LAFCO staff has assisted the smaller districts by reviewing the submitted financials so that the smaller districts will not have to hire a consultant. The majority of the districts have been cooperating with the reviews with the exception of a few. One of the districts is scheduled to be on the next agenda is the Seeley County Water District. Since this item is not on today's agenda the item will be discussed in more detail at the next scheduled hearing.

## DISCUSSION/ACTION/DIRECTION ITEMS

7. Discussion/Action/Direction regarding the Niland Fire District (NFD 1-14)

Mr. Heuberger stated at the January 28, 2016 hearing the Commission voted to dissolve the Niland Fire District. At the request of Mr. Sadorra the dissolution date was changed to February 26, 2016. Following the hearing Mr. Heuberger received a call from IC CEO Ralph Cordova addressing some concerns that the County wanted to discuss.

One of the concerns was the fire station property located in Bombay Beach. There was a question raised as to whether or not the LAFCOs actions impinged on that station remaining with Bombay Beach. This information was received by LAFCO after the January 28<sup>th</sup> hearing. After reviewing the grant deed document, the Bombay Beach fire station property was transferred to the Niland Fire District subject to continuing to be operated as a fire station. If the operations ceased or notice was given the property would then be returned to Bombay Beach. The County would be able to handle the property as a successor agency.

The second concern was an environmental assessment on the existing property in Niland. The County felt that the LAFCO should have conducted a phase I environmental evaluation. Mr. Heuberger stated he doesn't believe that is the Commissions obligation. If LAFCO were to conduct an environmental evaluation, who would determine who contaminated the property. The County has been operating the fire station for four years. LAFCO would not want to be in the middle of a legal battle. Mr. Heuberger understands the County's concern regarding potential environmental affects but doesn't necessarily agree. Mr. Heuberger has previously met with County Counsel Katie Turner, County CEO Ralph Cordova, and IC Fire Chief Tony Rouhotas to discuss these concerns. Mr. Heuberger sent a notice to Mr. Sadorra advising him that the LAFCO was considering extending the dissolution date to March 31, 2016 due to the County's concerns. Mr. Sadorra responded stating the dissolution date revision was not acceptable, and that response was forwarded to the Commission.

Commissioner Kelley stated the original dissolution date was revised to February 26, 2016 because of the NFD's insurance coverage.

Mr. Heuberger confirmed. The insurance coverage concern was raised by Mr. Sadorra during the January 28, 2016 hearing. The insurance coverage for the NFD would cease on February 26, 2016. Mr. Heuberger stated one of the concerns if the dissolution date was to be extended to March 31, 2016 was if the NFD would be able to continue insurance coverage. Mr. Heuberger contacted the NFD's insurance carrier and was advised that the insurance would be cancelled effective February 26, 2016 and a new policy was not an option.

County Counsel Katie Turner stated that during the meeting between the County and Mr. Heuberger the County had requested terms and conditions and a review explaining the dissolution process. What the County would request is clarification and a review similar to the Ocotillo Fire District dissolution process where LAFCO laid out what would happen and more due diligence was done. The County would like some other action to take place in case an environmental disaster should occur. The County wasn't concerned with taking over the NFD; the concern was in regards to the details that the County feels were not addressed.

Commissioner Froelich asked if the Commission would have the option to overturn.

Mr. Heuberger replied that at this time the Commission has already made a decision to dissolve the district. Mr. Heuberger is not recommending extending the dissolution date and understands the County's concern and stated that in the statute it is clear on what happens and for LAFCO to regurgitate conditions basically to state the same thing doesn't make much sense. The transfer of the property and everything that the district was in possession of would transfer to the County. In regards to the special assessment fee, the County Board of Supervisors voted to not continue with the special assessment. Mr. Heuberger's suggestion to the County was to continue the special assessment for a period of time. The district would be dissolved but the special assessment would continue. Continuing the special assessment would have given the County an opportunity for revenue to offset any costs that the County may incur.

County Counsel Katie Turner stated the County would like to have terms and conditions from the LAFCO to assist with the winding up of the dissolution process.

LAFCO Legal Counsel Ryan Childers stated the statute provides for the successor agency to determine what assets they will need to continue the service. If the asset is not needed then the successor agency would be able to dispose of it. There is broad authority to the successor agency under the statutes.

Mr. Heuberger stated that the County had raised several issues and he wanted to bring these issues before the Commission.

County Counsel Katie Turner stated to be clear this isn't just a request for an extension it is a request for due diligence in terms of several items.

Mr. Heuberger stated the district has to turn over any and all assets to the County; it's up to the County as to what they wish to do with the assets.

Commissioner Kelley asked if this resolves the concerns of the County.

County Counsel Katie Turner responded that it does not resolve the concerns of the County. The County was requesting terms and conditions stating the winding up would take time. The action that LAFCO has taken today is different than the actions that LAFCO has taken in the past in regards to the dissolution.

Commissioner Jackson stated that even if the LAFCO conducted an environmental study, the district is not in a position to pay for the study.

LAFCO Counsel Ryan Childers stated if LAFCO put terms and conditions on the resolution, the district would continue sort of as a zombie organization, deep in debt, and Mr. Childers believes the real issue is if the County had left itself in a position to maintain the special assessment revenues to deal with the contingencies then this wouldn't be an issue. Now that the revenues aren't there the County is in this position.

Mr. Heuberger stated that the LAFCO has incurred approximately \$26,000 for the NFD dissolution.

Commissioner Kelley asked why the County decided to stop the special assessment.

County Counsel Turner replied that there are other jurisdictions that receive similar services that do not pay an assessment. The community did not want to pay the assessment since other jurisdictions did not pay.

County Counsel Turner stated that the County would like the LAFCO to assist with the dissolution process if needed.

Mr. Heuberger replied that the LAFCO will assist the County.

No action was taken.

8. Discussion/Action/Direction regarding the Winterhaven Fire District (WFD 1-15)

Mr. Heuberger stated the Winterhaven Fire District has been uncooperative. The LAFCO has attempted to contact the district requesting specific information. LAFCO received a response stating the district does not have a budget, nor an audit or any financial documents. LAFCO replied back to that response stating the district must have some type of financial or accounting records. Since then the LAFCO has not received any response from the district other than an e-mail stating there is a new interim chief. The LAFCO has attempted to contact the new interim chief with no response.

Commissioner Kelley asked if the WFD exists.

Mr. Heuberger replied that the WFD is a legal entity but could not confirm if the district is operating.

Commissioner Froelich asked Mr. Heuberger to provide an update on the WFD.

Mr. Heuberger stated the WFD is a fire district in the County. The WFD has had issues with their operations for several years, particularly with the former fire chief. The LAFCO had sent the WFD fire chief notices and the LAFCO received a response from the WFD legal representative to which the LAFCO legal counsel responded. The County in the past would subsidize fire contracts. The small districts in part would operate with County equipment and County contract subsidized funds. The WFD several years back had contracted with the Quechan Nation to service the Quechan Casino which was a lucrative contract. At that point in time the LAFCO reviewed the WFD and the WFD seemed financially viable mainly because of the Quechan contract. That contract ceased and the County ceased its contractual obligations. The revenue of the WFD for all practical purposes is very little, not enough to even maintain a fire engine or fire station. Since then the County has begun operations in the Winterhaven and Bard area. The County Fire Department has a contract with the Quechan Casino. Once the County Fire Department started operations in the area, and the WFD no longer had the contracts, the LAFCO came before the Commission to start the dissolution process. The WFD district technically services the town site only. At this time it does not seem financially viable for the WFD to operate. Mr. Heuberger is not recommending the dissolution today because the LAFCO has not conducted a study. Mr. Heuberger is providing an update and advising the Commission that this may be a lengthy and costly process.

Commissioner Kelley asked if the WFD is opposed to dissolution.

Mr. Heuberger replied that he does not know at this point since the WFD has not responded.

Commissioner West asked if the Commission does have an obligation at some point to make a decision to start the dissolution.

Mr. Heuberger replied that yes the Commission has already given direction to the LAFCO to start the dissolution process. The information provided today is an update.

Commissioner Kelley asked what the districts revenue is.

IC Fire Chief Rouhotas responded that the district's annual revenue from property taxes is approximately \$13,000.

Commissioner Kelley asked if most of the responsibility financially falls on the County.

IC Fire Chief Rouhotas responded that the County agreed to staff a fire station in Winterhaven which began on June 22, 2015.

Commissioner Jackson asked if the WFD has any employees.

IC Fire Chief Rouhotas responded that he is aware of volunteer employees and received information of the WFD interim fire chief's resignation this past week.

Commissioner Castillo asked if the WFD is responding to fire and emergency calls.

IC Fire Chief Rouhotas responded that the WFD is responding to calls but would not comment on the level of calls the district is responding to.

Mr. Heuberger stated the LAFCO will work with the County in the case that the Commission votes to dissolve the WFD.

No action was taken.

9. Discussion/Action/Direction regarding CALAFCO Legislative Support

Mr. Heuberger stated the Commission is familiar with CALAFCO and Commissioner Kelley sits on the board of directors. CALAFCO has a legislative committee which reviews different legislation that could or would affect LAFCO. CALAFCO Executive Director Pamela Miller sends out legislation support/opposition requests and along with the legislative committee makes a recommendation. With the reorganization of CALAFCO years ago, one of the decisions that were made was to not have a splintered approach where each LAFCO would write pro/con on legislation. The bottom line is when the CALAFCO Legislative Committee makes a recommendation for the most part the LAFCOS have agreed. CALAFCO has a couple of bills that Executive Director Pamela Miller distributed and the draft letter is in the Commission package. CALAFCO has taken a position of support for two bills which are SB 1266 and SB 971,972, and 973 and were recommended by the legislative committee. Just recently in the last couple of days, the LAFCO received 2 additional bills from Executive Director Pamela Miller which are SB 1818 and SB 2032 and these are being recommended as opposition.

Commissioner Kelley stated the CALAFCO Legislative Committee is comprised of very bright Executive Officers and they work hard and Executive Director Pamela Miller has embedded herself in the legislative process. Commissioner Kelley urges this LAFCO Commission to support any recommendations of the CALAFCO Legislative Committee.

Mr. Heuberger stated the position of the CALAFCO board and the various LAFCOS has been unless there is a significant impact on how the LAFCOS operate we tend to stay neutral. It's rare where the CALAFCO board and the Legislative Committee recommend opposition. The Legislative Committee will normally go to the senator or assemblyman and see if amendments can be made to stay neutral. A lot of these bills don't affect the Imperial LAFCO.

Commissioner Kelley stated he recommends the authorization to support SB 971, 972, 973 and 1266 and the opposition of the SB 1818 and AB 2032 as presented by Mr. Heuberger.

Motion by Jackson and passed by the roll call vote of Froelich, Jackson, Castillo, Kelley, and West.

10. Discussion/Action/Adoption of the Draft LAFCO Budget for FY 2016/2017

Mr. Heuberger stated by statute a Draft Budget is required to be adopted by May 1st and open for public agency comment and the final budget is required to be adopted by June 15. A draft budget has been prepared for the Commission. Mr. Heuberger pointed out that there was a significant cost in the renovation line item for the 2015-2016 budget. The renovations are 99% completed and the LAFCO is waiting for the final inspection from the City of El Centro. The LAFCO currently has one small unit that is vacant and the projections for the next year are at a 10% vacancy.

Commissioner Kelley asked what the revenue is for all three rental units.

Accountant Julie Carter responded that revenue is \$4,700 per month.

Mr. Heuberger stated the LAFCO is negotiating with a current tenant to expand to the vacant space and make some minor modifications.

Commissioner Kelley asked if the Clerk that is out on leave is being compensated.

Mr. Heuberger replied that the Clerk has now returned to work and was not being compensated while out on leave.

Commissioner Kelley asked if the limited term was being continued.

Mr. Heuberger replied that the limited term position is continued to the end of the 2015/2016 fiscal year and is being budgeted for the 2016/2017 fiscal year in the case that there is a continued need for the limited term position.

Commissioner Froelich asked if the emergency contingency fund amount is the same each year.

Mr. Heuberger replied that several years back the Commission implemented a contingency fund policy in the case that an emergency would arise. The original contingency fund amount was \$250,000. The majority of the contingency fund was utilized for the building renovations and also the purchase of the building. The Commission subsequently lowered the contingency amount to \$100,000. The \$34,762 amount included in the 2016/2017 budget would bring the contingency fund to \$73,000 of the \$100,000 goal. The number could change slightly at the end of the year due to any carryover or deficit.

Commissioner Froelich asked for clarification for the county travel line item.

Mr. Heuberger replied that the travel budget item is for the Commissioners to attend the CALAFCO annual conference. Part of it is for the Chairmen to travel to Sacramento and other meetings as part of the CALAFCO board. The next conference is in Santa Barbara and all Commissioners are budgeted to attend.

Motion by Commissioner West and passed by the roll call vote of Froelich, Jackson, Kelley, and West to approve the 2016/2017 Draft LAFCO Budget.

PUBLIC HEARING ITEMS

11. [8:40] Public hearing to consider the approval of the Service Area Plan/Municipal Service review for the City of El Centro (EC 2-15)

LAFCO Legal Counsel Ryan Childers stated the he will recuse himself since he is acting city attorney for the City of El Centro.

Mr. Heuberger stated this is a SAP/MSR that we are required under the Cortese-Knox-Hertzberg act to update. Mr. Heuberger commended the Director of Community Development Norma Villicana for a great job. Mr. Heuberger has reviewed the SAP and has no issues and recommends the Commission approve. The city is not asking to change the Sphere of Influence, and the information that is in the report seems to be accurate and readable to the general public. There are no housing element issues because the City has an approved up to date housing element.

The Director of Community Development Norma Villicana stated the City is happy to be at this stage, have worked hard and thanked Mr. Heuberger for his quick review of the Service Area Plan. The City is requesting approval from the Commission.

Commissioner Kelley asked if the approval request is for Option #1.

Mr. Heuberger replied yes his recommendation is to approve Option #1.

Motion by Froelich and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo, and West to approve Option #1 of the EO Report.

12. [8:45] Public hearing to consider the approval of the Service Area Plan/Municipal Service review for Bard Water District (BWD 1-16)

Mr. Heuberger stated this is a Municipal Service Review and Service Area Plan update for the Bard Water District. The Bard Water District is located in the Bard Valley and is a very small district similar to what the IID provides although they don't provide power. In reviewing the districts financials, the district is budget conscious and also a low scaled district. The district asked if there would be a need to go through the expense to hire a consultant. Mr. Heuberger reviewed the submitted financials and after reviewing Mr. Heuberger did not see the need to require the district to go through a costly and extensive review at this time. The financials seem adequate and the district is providing the services.

Mr. Heuberger is recommending the approval of Option #1 of the EO report.

Motion by Castillo and passed by the roll call vote of Jackson, Kelley, Castillo, and West to approve Option #1 of the Executive Officers Report.

13. [8:50] Public hearing to consider the approval of the Service Area Plan/Municipal Service review for the City of Westmorland (WM 1-15)

Mr. Heuberger stated this is a Municipal Service Review and Service Area plan update for the City of Westmorland. Present today is Mr. Hambley, representing the City. The City of Westmorland does not have an abundance of funds for an extensive service review and the LAFCO received notice from the City that there have not been any changes since the last MSR/SAP. The concern is the most recent audit received from the City is from 2009. The financials were submitted and reviewed. The City is doing a lot with very little funds. The City is a



viable City and there are some financial constraints. Mr. Heuberger does not feel the need at this time to require the City to go through an extensive and costly review.

Commissioner Froehlich asked who pays for the MSR/SAP.

Mr. Heuberger replied that the City is responsible for the cost. The reviews are expensive and therefore the LAFCO has been lenient.

Mr. Heuberger is recommending the approval of Option #1 of the EO report.

Motion by Froelich and passed by the roll call vote of Froelich, Jackson, Kelley, Castillo, and West to approve Option #1 of the Executive Officers Report.

## EXECUTIVE SESSION

### 14. Anticipated Litigation


The Imperial County Local Agency Formation Commission will recess to closed session with its attorney regarding anticipated litigation in that:

Imperial County Local Agency Formation Commission to Initiate Litigation. Based on existing facts and circumstances, LAFCO had decided to initiate or is deciding whether to initiate litigation. There is one (1) such potential case. (Government Code 54956.9(c)).

Legal Counsel stated direction was given to legal counsel in closed session however no formal action was taken.

Meeting adjourned at 9:52am

Mike Kelley, Chairman

  
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Jurg Heuberger, AICP, CEP  
Executive Officer to LAFCO