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COMMISSIONERS

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Maria Nava-Froelich

CITY

Jason Jackson, Chair

COUNTY

Michael W. Kelley, Vice-Chair

COUNTY

Ray Castillo

PUBLIC

David H. West



ALTERNATES

CITY

Jim Predmore

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Jesus E. Escobar

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Ed Snively

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EXECUTIVE OFFICER  
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL  
Ryan D. Childers

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ACTION MINUTES OF THE REGULAR LAFCO HEARING

January 23, 2020

8:30 a.m.

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

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**VOTING COMMISSIONERS PRESENT:**

Maria Nava-Froelich  
Jason Jackson, Chair  
Michael Kelley, Vice-Chair  
Ray Castillo  
David H. West

**ALTERNATE COMMISSIONERS PRESENT:** None

**ABSENT:** None

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

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

1. Roll Call
2. Pledge of Allegiance
3. Election of Officers for 2020

**A. Chair**

**Motion by Commissioner Kelley nominating Commissioner Jackson as Chair.**

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

**B. Vice-Chair**

**Motion by Commissioner West nominating Commissioner Kelley as Vice-Chair.**

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

**4. Approval of Consent Items:**

- 4A. Minutes from July 25, 2019
- 4B. Project Report update

**Motion by Commissioner Kelley approving items 4A and 4B.**

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

**5. Public Comments**

No public comments were made.

**ANNOUNCEMENTS**

**6A. Announcements by the Commissioners**

- i. Update on CALAFCO Dues (Commissioner West/Commissioner Kelley)

Commissioner Kelley stated we had our annual conference and discussed the increase in membership dues on a statewide basis to ensure CALAFCO continues to exist. It's coming up for discussion at the CALAFCO Board of Directors meeting in San Diego on February 21<sup>st</sup>. I'm not able to make the meeting but Commissioner West will attend the meeting to ensure that our voices are heard and that we would like the dues to stay as voted by the majority of the LAFCOs. In addition, there's legislation that CALAFCO is working on, Government Code 56133 that ensures LAFCO's have the authority over a municipality or district to extend services and functions. We are still working on legislation for the funding of CALAFCO. It will be a busy year and I give proxy to Commissioner West when he attends the February meeting with the biggest portion of that meeting to discuss dues.

Commissioner West stated for the first time Imperial County has two Commissioners that serve on the CALAFCO Board. Its important Imperial County has representation at the state level and to ensure we are addressing with the county needs and what the state needs. It's a great opportunity for us to move forward.

Commissioner Froelich stated she attended the conference and it was her first time. It was a great conference. We had an ICTC meeting last night and ICTC is becoming a COGG and taking over some of the duties like animal control and resource waste management. We are working with the different cities in becoming a COGG for the county. We are happy to be working with the north end. We had a groundbreaking ceremony for the substation and sheriff department. A lot of good things are happening in the city, we received the approval for a new park, and we have a new finance officer.

Commissioner Kelley asked if Commissioner Froelich could explain what a COGG is.

Commissioner Froelich stated that COGG is a form of government where it would be a consolidation. It's forming a consolidation instead of us having the city overseeing the IV Waste Management. The ICTC had to go through all the steps to form and approve the way the original resolution was when we became a transportation commission. We will also be taking over the SAFE which is the call boxes that are heading toward San Diego. It used to be done by the county. There are details to work out with the city mangers before it becomes official.

Commissioner Castillo stated we are looking forward to the new decade. We are entering an exciting period in this county where we will see a big transformation. When I took office in 2011 that's when we had a lot of renewable energy on the agenda. During the first four years there were public hearings with a lot of interest from the public. The hearings were packed with overflowing crowds. I see these next years as being busy. We have a power purchase agreement with Controlled Thermal Resources and people don't realize how big that is. It allows them to go out for financing. The project will cost six hundred million dollars, just for the geothermal plant. It will probably be the biggest plant in the nation. IID has also awarded the sale of land in the north end to a company. This will be huge. It won't happen overnight, but it will transform the whole north end. I can see LAFCO staying busy with those projects.

Commissioner Froelich stated the City of Calipatria does support the project at the north end.

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

i. 2020 Calendar (attached) Paula Graf

- ii. Website update (Paula Graf)
- iii. Extension of Water Service by the Heber Public Utility District to BFBC, LLC (HPUD 1-19)
- iv. Co-Hosting Staff Workshop (Jurg Heuberger)
- v. Financial Statements for FY 18/19

**i. 2020 Calendar**

LAFCO Analyst Ms. Paula Graf stated in your packets is this year's calendar, it includes the CALAFCO Board of Directors meetings as well as the LAFCO hearings. Two of the events to highlight this year are the staff workshop that will take place in Orange County and the annual conference that will take place in Monterey.

Commissioner Kelley asked if the CCL meetings are included.

Ms. Graf replied not on this calendar because those dates were just received. The calendar will be updated and re-sent.

Mr. Heuberger stated the annual conference is in Monterey and because of the location it books fast. Once we have the reservation dates, we will inform the Commission.

**ii. Website update**

Ms. Graf stated back in 2018 your Commission approved upgrading our website to comply with updated rules and regulations. The host of our website, Conveyor Group was hired to do the upgrades. It was completed in October of 2019. The Commission approved a not to exceed amount of \$10,000 and the total cost came out to \$8,700. There's an example on page 2 of the report that shows how the website looks using a mobile device.

**iii. Extension of Water Service by the Heber Public Utility District to BFBC, LLC (HPUD 1-19)**

Mr. Heuberger stated the Executive Officer did approve an extension of service to the Heber Public Utility District to provide water outside of their district for a specific purpose. It's my understanding from the HPUD's General Manager that ultimately this was not needed because the federal government was approved to drill wells out in the desert that no one else can get permission for.

**iv. Co-Hosting Staff Workshop (Jurg Heuberger)**

Mr. Heuberger stated the staff workshop will be in March. It's a workshop primarily intended for staff although it is open to the Commissioners. The idea behind the workshop is for training purposes. This

year I made the mistake of making a session suggestion and hence volunteered for it. We will have a general session which will be a mock hearing. Commissioner West will act as Chair, we have a total of five Commissioners. Mr. Andy Vanderlaan from San Diego will be on the panel as well. The session is based on the dissolution of a fire district, which is a combination of Imperial Counties and San Diego's past dissolutions. There was a lot of interest from the Executive Officers and the Planning Committee that we are on. Also, as you see in your staff report, we are co-hosting with OC LAFCO. OC staff have put together a good hotel location and tour of the Newport Beach harbor to talk about activity going on with the Coastal Commission. You as Commissioners welcome to attend just let us know. It's from March 25-27. As part of the co-hosting we are taking an active role, Paula Graf and Julie Carter will be manning the workstation and volunteering.

**v. Financial Statements for FY 18/19**

LAFCO Accountant Ms. Julie Carter stated the Commission was provided the financial statements for the year ending June 30, 2019. We have one more year with these auditors and the Southern Region will then get together and try to do a joint proposal. So far everything is good on the financials, there was nothing negative, all positive.

Commissioner West stated that sometimes an auditor will mention things that we are supposed to be doing better. Is there anything that was stated we should do better.

Ms. Carter replied no, we are in good standing. There should be a letter included as well.

Commissioner Froelich asked if there were any findings.

Ms. Carter replied there were no findings.

Mr. Heuberger stated as you may recall about 4 years ago the southern LAFCOs did a joint RFP in order to get a better cost break with the audits. San Diego was excluded because they already had an agreement. We jointly selected the group we have. The Executive Officers met recently and agreed to a one-year extension of the current agreement. Because of some rules that different LAFCOs have, for example, Los Angeles has a policy that they cannot use the same firm repeatedly. We will be going out for a joint RFP in the next couple of months. That doesn't mean that the same firm that's being used cannot bid on it. We do have to go out for a formal RFP. Our cost was about \$8,200 which is in line with what we've been paying. The cost didn't go down a lot from what we've been paying. The advantage is that we got a better comparison with how other LAFCOs are evaluated. The firm is a good firm to work with.

Commissioner Jackson asked if Los Angeles could take part in the contract if the same firm is selected.

Mr. Heuberger replied that he would need to clarify with Los Angeles. Some LAFCOs have policies that state the agreement can be extended as long as they wish. There are some federal rules that might not be mandated but more of a suggestion that it be open to using different firms.

Commissioner Kelley stated its good to hear that there is a good bill of health, but we didn't have the literature prior to the meeting for review.

Mr. Heuberger stated the audit was just received yesterday; we were expecting it earlier.

Commissioner Jackson asked that it be added to the next agenda, it's hard to have comments in a short period of time.

Mr. Heuberger stated it would be added to the next agenda.

#### DISCUSSION/ACTION/DIRECTION

**7. Discussion/Action/Direction regarding an update on the Service Area Plan(SAP)/Municipal Service Review(MSR) for the Imperial Irrigation District (IID 1-16)**

Mr. Heuberger stated as you know and we've reported to you before, we are working with the IID. IID staff Antonio Ortega and Justina Arce are present today so if I speak out of text, I'm sure they will correct me. We received the SAP and request for review and had hoped to have it before the Commission during the second quarter of this year. A component that is crucial of this process won't be completed until June or July. It may be scheduled for hearing in late summer or the fall. We need a map of the district's actual boundaries. The IID has to go through an extensive process to make sure they have the correct boundaries because of their vast handlings of properties. It's a complicated process, they are governed somewhat by congressional directives and authorities. We are working with IID staff. I thank and commend Ms. Arce for the extensive work she's done. I'm sure it was a tedious task, but we now have a more comprehensive document.

IID Water Resources Planner Ms. Justina Arce stated the maps that we have for our district boundary are not digitized and are not in GIS. The attempt moving forward is that we have selected a consultant to assist our real estate department after validation of records of inclusions and exclusions to create the map. The process should take about five months. Once we look at the records, we will then allocate staff in-house to be able to validate the records. It's not just a matter of providing the documents for someone to interpret. We want to make sure someone at a senior level is able to look at the records and say its consistent with the resolution and legal description that was acted upon by the

district. That's the level of scrutiny we want to apply for water and of course the power boundaries have been forwarded to LAFCO.

Mr. Heuberger stated since the IID provides power service in another county, we are working with Riverside LAFCO just to make sure it will go smoothly.

Commissioner Kelley stated its under our authority.

Mr. Heuberger replied we've had some information in the past where Riverside LAFCO may have had some serious comments, so we are working with the EO to keep it on the smooth side.

**No action taken**

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

Mr. Heuberger stated that we recently received information from the district and haven't had a chance to fully digest the information. Mr. Tomas Virgen is present today and can address the update if he wishes. We appreciate his efforts in working with us, it appears that the district is making a concentrated effort following the Commissions directive a couple of years ago.

Commissioner Kelley asked if hiring an Executive helped the District.

Mr. Heuberger replied Mr. Virgen is present and we've worked together. He's made an effort to keep us informed before it hits the newspaper so to speak.

HMHD Chief Executive Mr. Tomas Virgen stated we've been working diligently since he started back in August. I praise the LAFCO team, they have been very constructive, responsive and helpful. The District recently completed a five-year plan with the help of the LAFCO. We started working on projects that are community health related. The only item pending is the audit and that should be done by the first week of next month.

Commissioner Kelley stated its good to see the District is going in the right direction. At one time the District was close to being dissolved by this Commission. There was a grand jury report and the negative aspects and issues were discussed with the District. I think they are going in the right direction and properly using the funding for the health, safety, and welfare for the citizens of Calexico. The District made the right choice in hiring an executive.

Commissioner Froelich stated she commends Mr. Virgen and the District for moving forward and continuing on a good track. We will continue to monitor.

Mr. Heuberger stated we will bring a formal report for direction in the March/April time frame. There are some things that Mr. Virgen and staff need to go over. It looks like we are heading in a positive direction.

Commissioner Kelley stated the best thing to do is continue communication with LAFCO.

**No action taken.**

**9. Discussion/Action/Direction regarding an update on the proposed Rancho Los Lagos Community Services District (RLL CSD 1-18)**

Mr. Heuberger stated Rancho Los Lagos has been before your Commission several times. This is a project that the County approved some time ago. It's at the south end of the City of Brawley towards the Mesquite Lake area. One of the requirements of the project in addition to a development agreement that the County imposed also required a Community Services District or similar type of district like a County Service Area to be formed. The County chose to apply for a Community Services District which has much broader power in terms of the services and destined to become an independent district versus a CSA that is governed by the Board of Supervisors. If and when it's formed, it will be under the direction of the Board of Supervisors until such time that there are people that can be elected to the district. For some period of time it would be under the direction of the Board of Supervisors. At the present time we are working with the applicant and are also working with the City Manager of the City of Brawley Ms. Rosanna Moore. One issue that was brought up was that the City of Brawley is required to provide water to the CSD because of state regulations. We've been working with Ms. Moore and the developer. In a nutshell the intent here is not for the City of Brawley to sell the water within the CSD, they would be a wholesaler. They would sell the water to the CSD and the CSD would be the retailer for the water. To get to that point the City of Brawley did request that technical studies be completed to show the impacts and what would be required and the costs to their system.

Commissioner Kelley asked if the CSD develops infrastructure in that area, could the Keystone Industrial Park connect at some time, once they become an independent district.

Mr. Heuberger stated let's assume that we form the district, there are a lot of hurdles that have to be overcome. Forming a CSD is pretty close to incorporating a city which has its challenges. We have to have a lot of financial wherewithal. Assuming its formed, it becomes an independent special district.



That district ultimately could expand and could provide services around that area. It's possible to add to that district.

Commissioner Kelley stated we have people here in the audience from Spreckels that are concerned about potential litigation against them from the smell and being so close to residential. There's a cattle yard and they are worried if the CSD evolves then they might be subject to potential lawsuits.

Comments in the audience were inaudible.

Mr. Heuberger stated this project has already been approved by the County. LAFCO doesn't have land use authority. It's either we form the district or not. The regulations for forming the district cannot take into consideration the impacts to neighbors. That's an issue that had to be addressed at the time the County approved the land use. Our obligation is to determine whether or not the district should be formed then the land developer would have a problem. One of the County's requirements was that a special district be formed. It would potentially go back to the County for a possible modification if the special district wasn't formed.

Commissioner Jackson asked if we have jurisdiction to change the boundaries of the CSD.

Mr. Heuberger replied you have the ability to set the boundary but if the boundary doesn't match the approved boundary then anything outside of that couldn't be serviced by the CSD which means part of the project couldn't be built. That would be tough to evaluate. The County has already said this is the project and this is approved. When this comes before you, the biggest issue that we have to be able to say is that the CSD is a financially capable formed district. As you know we've dissolved districts for the very reason that they aren't financially successful. We cannot form a district that is destined to fail because of finances to begin with. At the last couple of meetings financial information was provided to the Commission and we had a consultant do a fiscal review. This review evaluated the projects financial components. The review was based on the housing market at two different levels. The reason this was done is because if you use the valuation data at one level then there's a huge deficit and not enough revenue. It would take a special assessment for it to work or the developer would have to make some type of concession. The higher market value that was used brought the gap down but there's still a gap. I've had discussions with the County CEO Mr. Tony Rouhotas and just talked this morning about having another meeting because the capability of the County BOS acting as the Board of Directors of the CSD doesn't obligate the County to subsidize it and they can't. The CSD has to be financially independent. For the first few years the CSD will have limited amount of growth, certainly not the type of growth that would make it sustainable. There will be a gap. There will also be a cost for the County to oversee it. We've asked the County to provide us with some figures of what it would take, it should be minimal administrative costs. The development agreement mandated the services that are to be provided by the CSD. The fact that the CSD would have to pay for all these services is

where the gap ended up being so big over the current estimated market housing values. The project has a commercial component. The developer is pushing the commercial side of the development to be the first emphasis.

Commissioner Kelley asked what kind of commercial development.

Mr. Heuberger replied any type of commercial. One that was looked at was a prefabricated housing manufacturing company. We had a meeting at IVC with a company out of Idaho. The company uses cargo containers to build modular homes. It's a good company and if they were to locate here it would be a good project. The developer is looking for that kind of initial startup as opposed to housing. It will take less services and less capacity and provide more of a tax base and employment revenue.

Commissioner Jackson asked if it's more of a commercial/industrial type use.

Mr. Heuberger replied yes.

Commissioner Kelley asked how this is for the homeless.

Mr. Heuberger replied it was an interesting presentation on the project and they have the opportunity to provide some reasonable cost housing. They are small units from 300-900 square feet. The project will take quite a bit of coordination between the County, LAFCO, and the City of Brawley. The City of Brawley wasn't too enthusiastic when they were first told though, it was a letter that was provided by the CA State Water Resources Control Board. We are making every effort to make this a revenue positive approach for the city while not impacting the CSDs long term cost.

Commissioner West stated since we cannot address the concerns from the people here in the audience today, where would they go so they can get some information.

Mr. Heuberger replied unfortunately the County's approval process is about three years old. It's past any legal challenges. Certainly, they can go to the County. The projects approved by the County and way past any kind of challenge. Not sure the County has much they can do about it.

LAFCO Legal Counsel Mr. Ryan Childers stated that they might want to have their legal counsel take a look at the right to farm ordinance, it's in place county-wide. I'm confident it would cover the Heffer Ranch and Spreckels. Everyone that buys a home in the county gets a disclosure that there's a right to farm ordinance that states there might be a stinky feedlot, a farmer might plow up his field and get some dust, you have to live with it and you cannot sue anybody. Have your legal counsel take a look at it and see if it applies to your particular business. I'm not your lawyer and cannot speak to that but that's the suggestion.

Commissioner Froelich stated on Item #2, it talks about domestic water and the ability to deny if they want to start a new PWS, it talks about feasible alternatives. What other alternatives would we have. I know that Brawley is tasked to sell the water in bulk.

Mr. Heuberger replied that in the past the alternative was they build their own water treatment plant. The state has taken the position now and made it not impossible but extremely difficult to build new water treatment plants. They don't want any new plants. When I talked to the state on other projects they've said if there is no reasonable way to get water to the site then they would permit. As an example, the geothermal plants that are seven or eight miles from the nearest water treatment plant, in that case the state did approve a new water treatment plant. Those plants have to meet all the regulations that the city does. It's expensive as you know. If you are within a mile or two, the state would most likely not allow a new plant because it may be more reasonable to extend the line. It's better in the long term because you have fewer potential problems with managing the smaller plants. In this case eventually if the project is built out, this is almost an equivalent of a small city. It will take a long time, in the meantime the city providing water makes a lot more sense. It is not that far outside of where Brawley's closest connection is. It's not contiguous so we cannot annex it but its close. He thanked Ms. Moore for her patience on this project.

Spreckels Sugar employee Mr. Froelich stated he understands the county's goal on economic development. It's evaluating what that means, and, in this case, we have a specific project. I am trying to get some clarity of the role of LAFCO and went to the state government code that states the role. The purpose of the LAFCO Commission is to discourage urban sprawl, preserve open space and prime agricultural land, encouraging efficient government services and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. There is leeway for the local government. What I see on the project is this project is inconsistent with the mission of LAFCO. It sounds like there is some power here, it's not inevitable here, everyone goes home it's going to happen. The communities come together to decide if this development makes sense. Is there a timeline as to when the body will vote.

Commissioner Jackson replied in response to your statement, we do have the responsibility to approve the project based on being fiscally able to sustain itself which is what Mr. Heuberger is talking about.

Commissioner Kelley stated and at the same time preserve agricultural land and discourage urban sprawl.

Mr. Heuberger stated the biggest obstacle right now is the financial side, it doesn't negate that we have to make other findings along the way which include what Mr. Froelich just stated. It's far from being a done deal. Right now, even the financials are severely challenged from our perspective. As to

the timeline, the City of Brawley might take about three months for the technical study to be completed and then evaluated by their council. We are looking at about five to six months for the City to complete its component. We have to meet with County staff to see what their cost would be. We may have to go back to the financial consultant to reevaluate some things. There should be a couple of meetings with the County and the Board of Supervisors to determine some of the impacts.

Commissioner Kelley asked if the land was under the Williamson Act.

Mr. Heuberger replied no it's not. This project will more likely be closer to the end of the year before it will be ready for hearing. I don't want anyone to walk out of here thinking we won't worry about it until November-December. We will notify everyone within at least a mile or so of the project.

Commissioner Kelley stated the gentlemen does make a good point, if a novice person reads the code and it says prevent urban sprawl and preserve ag land and here, we are developing Los Lagos on part of the best ag land in the County of Imperial.

**No action taken.**

**10. Discussion/Action/Direction regarding the Salton Community Service District (Fire Department)**

Mr. Heuberger stated we received a heads up from the County that there are some potential problems with the Salton Community Services District, specifically their fire department services. The district went out for a Proposition 218 vote for additional funding and it failed and resulted in shutting down their fire services. The County stepped in and is temporarily providing the services. Imperial County Fire Chief Mr. Alfredo Estrada and Imperial County CEO Mr. Tony Rouhotas are both present today. At this time, we are working with the County and the District. The Districts General Manager Mr. Mitch Mansfield is also present today.

Imperial County Fire Chief Mr. Alfredo Estrada stated we've been providing emergency management and fire protection services 24/7 since October 30<sup>th</sup>. We've been in constant talks with the County Board of Supervisors, County CEO and the Districts General Manager trying to look for both short- and long-term positive resolutions.

Commissioner Froelich asked for clarification on the multi-purpose use of the District.

Mr. Heuberger replied this is a Community Services District and they have the legal ability to provide services similar to a city. We have the ability to control the services, for example, if the District hasn't been providing police protection and they want to, by statute they could but with the Commissions approval since it's a new service. In this case they've been providing fire protection but if they can no

longer provide it financially then it would be our obligation to remove that authority from them in order to not jeopardize the remaining services. The District currently provides, sewer, and parks. Water is provided by Coachella Valley Water District. We cannot allow them to use sewer funds to subsidize the fire department.

Commissioner West stated are we now going to have to look at the entire services to make sure they can provide all services.

Mr. Heuberger replied we've asked for the financials and have met with the District manager to ensure the district is still viable. We will have to take a look at the entire district but right now the goal is to work with the District and the County to make sure they have fire protection. All credit to the County for stepping in and providing the service. The question is if the County will be providing it in the future. The County doesn't have a special tax mechanism that would generate the additional revenue. One option of course if the County decides to continue to provide is the option of a Proposition 218 tax supplement that could be passed. Let's cut to the chase, a lot of times people as you've seen before don't vote for a special tax because they don't necessarily have the confidence in the agency asking for the tax. That's not to say the County won't get the approval. There's a possibility if a different agency asks for it, and the people understand there's an impact to their fire insurance among other things, it might pass.

Commissioner Jackson asked if the District is similar to a city, why can't they contract with the County.


Mr. Heuberger replied it's an option we are looking at, we may not remove the service, but we may condition that it be a contract or arrangement with the County or some other agency. These are all things we are starting to explore. We want to make sure the Commission is aware.

Commissioner Froelich stated when Niland did their Proposition 218 it didn't pass.

Mr. Heuberger stated the first time it passed but the Board refused to accept it. The second time it did pass.

**No action taken.**

Jason Jackson, Chair



Jurg Heuberger, Executive Officer