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CITY

Maria Nava-Froelich

CITY

Jason Jackson, Vice-Chair

COUNTY

Michael W. Kelley

COUNTY

Ray Castillo, Chair

PUBLIC

David H. West



EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL
Ryan D. Childers

ALTERNATES

CITY

Jim Predmore

COUNTY

Jesus E. Escobar

PUBLIC

Ed Snively

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ACTION MINUTES OF THE REGULAR LAFCO HEARING

July 25, 2019

8:30 a.m.

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

VOTING COMMISSIONERS PRESENT:

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

ALTERNATE COMMISSIONERS PRESENT:

Ed Snively

ABSENT:

None

STAFF PRESENT:

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

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

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

3A. Minutes from May 23, 2019

3B. Project Report update

Motion by Commissioner Kelley to approve Items 3A and 3B.

MOTION: Kelley
AYES: Froelich, Jackson, Kelley, Castillo, West
ANO: None
ABSTAIN: None
ABSENT: None

4. Public Comments

No public comments were made.

ANNOUNCEMENTS

5A. Announcements by the Commissioners

Commissioner West stated we are getting ready for the annual conference that will take place in Sacramento. There are three great programs and more breakout sessions.

Commissioner Froelich stated she attended an ICTC meeting last night. ICTC approved a five-year agreement with First Transit and are looking at different projects moving forward. The City of Calipatria re-established several new committees including The Lions Club, and The Chamber of Commerce. We are also working with Supervisor Mr. Ryan Kelley on the North End Action Council. The next meeting will take place in Bombay Beach and it will be open to the public and announced in the newspaper. The Family Resource Center at the school district is busy and we are hoping to have a telemedicine on board. We are hoping there is a classroom that's available for a new lease agreement with Imperial County Behavioral Health.

5B. Announcements by the Executive Officer

i. Southern Region Meeting

Mr. Heuberger stated the CALAFCO conference is in October, we haven't received the packages for registration but as soon as we do, we will need to know which Commissioners plan to attend. In the past, hotels have been booked up and there's been a need to look elsewhere. We have two of our Commissioners that sit on the CALAFCO Board of Directors. Commissioner Kelley is moving up the ranks and destined to be the Chair.

The Southern Region section had a meeting about a month ago. Next year's staff workshop will be hosted by Orange County and Imperial County LAFCO jointly. We will try to have that workshop in the Orange County region. It's a pricey location to find hotels, and apparently the rule is to find a hotel that's \$200 or less a night. It's been hard to find a hotel for under \$200. We've been talking to Ms. Pamela Miller and she may reach out to Commissioner West and Commissioner Kelly to discuss some issues. We've discussed the possibility of moving both the staff workshop and annual conference to different

times of the year because we seemed to have picked busy seasons for both the conference and the workshop. We are looking at alternatives.

DISCUSSION/ACTION/DIRECTION

6. Discussion/Action/Direction regarding an update on the Service Area Plan (SAP)/Municipal Service Review (MSR) for the Imperial Irrigation District

Mr. Heuberger stated we are required to update the SAP/MSR at least every five years or more frequently depending on conditions that warrant it. The IID is a special district and are required to prepare a SAP. We have been working with IID staff, both Justina Arce and Antonio Ortega and they've made significant progress. There have been some preliminary reviews of the documents that IID is putting together and expect sometime by middle to late August to have some meetings with IID staff to go over the plan and see what areas may need to be addressed or provide additional information on. We are hoping to have that back to the Commission in September depending on the meetings with IID.

Commissioner Froelich asked if the District could provide the draft report in electronic version and if there are big changes that are anticipated.

IID Government Affairs & Communications Officer Mr. Antonio Ortega stated the document is currently being circulated for management review. Soon after that the IID Board of Directors would provide any comments or edits to staff. He doesn't anticipate the board would have any significant changes or edits, but once they have that opportunity then the document will be available in either draft or final form to the Commission. He cannot speak on behalf of the board regarding any changes. In his opinion it's a thorough and comprehensive report. Back in November, IID added a Water Resources Planner, Ms. Justina Gamboa-Arce to the team. She has experience completing service area plans for other special districts in Imperial County. When she took over, she had to beef up the report from where it was. IID is happy to have her on board and the product delivered to the Commission will satisfy all the requirements.

Commissioner Kelley asked if Ms. Gamboa-Arce is a consultant.

Mr. Ortega replied she's a full-time employee.

No action was taken on this item.

PUBLIC HEARING ITEM(S)

7. Public hearing to consider the approval of the annexation of ICOE (EC 2-17) and sphere of influence amendment to the City of El Centro

Mr. Heuberger stated this is a public hearing to consider the annexation of ICOE EC 2-17 to the City of El Centro. This is for the annexation of land that is adjacent to what is commonly referred to as County Center 2. The county has some office spaces, jail facility and a sheriff office. The annexation is for the Office of Education that currently occupies a portion of County Center 2 off of McCabe Road. ICOE obtained 80-acres to the west with the intention of someday developing at least a portion for educational related and the balance for similar types of uses. As the process requires, ICOE went through the City of El Centro for the land use entitlements and obtained the approvals that are listed on page 3 which are the mitigated negative declaration, plan amendment, zone change, annexation agreement, and a tax sharing agreement that is required by state law. As a reminder to the Commission, a tax sharing agreement is an agreement between the two agencies, mainly the county and the city. A project cannot be brought to the Commission until the agreement is executed. Routinely applicants do not understand that process. The items are attached to the report including an analysis that's provided by staff. Paula Graf, Analyst did almost all the work on this project and it was a learning experience for her, but she did an excellent job. The findings that have to be made are included in the analysis and in summary without going through each item, reflect no significant impacts or problem areas. We provided the requisite public notices which are shown on page 7. As of today, we haven't received any conflict of interest statements as required by our policies from the commissioners, likewise the executive officer doesn't have any known conflict of interest and does not own any property in the vicinity of this project or have any source of income related to this project. The executive officer's recommendation starts on page 8 and is basically somewhat the usual requirements. The pre-zoning and the various portions of the land use entitlements have been approved by the City of El Centro. The city and the county have reached a tax sharing agreement. He cannot speak to the letter that was just received with the heading as "Tax Sharing Impacts", we will address that as necessary. With regard to the executive officer's recommendation, there are conditions that must be met prior to the project being recorded. The applicant in this case, the ICOE have received a copy of the conditions and we haven't received any comments as of today.

City of El Centro City Manager Ms. Marcela Piedra stated she's here specifically to discuss the tax sharing agreement and not any other issue specific to the ICOE. The ICOE and the city have been working together and we are happy to see the project moving forward. As you can see from the letter that was just provided, it is similar to the letter that was provided to the County Board of Supervisors when the tax and fiscal impact agreement was presented to their board. It more relates to the overall status of where we are in terms of the City of El Centro and perhaps other cities in Imperial County as it relates to considering annexations to cities. In summary the highlights of the letter are based upon direction by city council and how we apportion the tax sharing upon areas that are annexed to the city. We are asking as we move forward with discussions and negotiations with tax sharing with the county that there is some reconsideration as to how the property taxes are distributed. We feel that when properties are annexed, the city carries the responsibility of providing the necessary municipal services to the area being annexed. Another area of concern is when a developer looks at an area to be annexed,

they have to pay impact fees to both the city and the county and in many instances creates financial burdens on those projects. We've had conversations with the county executive officer and staff, and they are receptive at looking at the way the distributions are being done. We understand the county is looking at updating the county impact study and we look forward to sitting down with staff to see what those impacts might be. We are bringing it to your attention because as Mr. Hueberger stated, a project will come before your Commission once a tax and fiscal impact agreement is approved. It's imperative that we come to an agreement that works with the county and the city as we don't want to create any negative impact with an annexation in the future.

Commissioner Kelley asked if we can move forward without a tax agreement.

Mr. Heuberger replied there is an executed tax sharing agreement that is included in your packet.

Ms. Piedra stated this is basically for any future tax agreements. The last annexation that was considered was back in 2016 for Lotus Ranch. In the past we had a master tax agreement that covered any potential annexation within the city. Absent that agreement, each project requires an individual tax agreement. We hope moving forward is that we can have a master tax agreement so that we don't have to negotiate each project and that might be the case with other cities as well.

Commissioner Kelley asked if the issue is with the County and not LAFCO.

Ms. Piedra replied yes, the tax agreement is between the City and the County.

Commissioner Kelley replied good luck.

Commissioner Froelich stated for clarification, the tax issue is with the County and the City.

Ms. Piedra stated the way it works is the agreement is with the City and the County but as pointed out by staff, if there isn't an agreement and there's a potential annexation with any city in Imperial County, that project would not be brought before your board until the agreement is negotiated. Our city is bringing it to your attention, it's important that we look at how we have been apportioning the taxes associated with annexations. At the end of the day it will impact any annexation that you may not even see if we don't get to a point where we reach an agreement.

Mr. Heuberger stated in the past, over 15 years ago now there was a master tax agreement. The master tax agreement was between the 7 cities and the county. We tried working on a new master agreement when the original one expired. Thousands of dollars were spent on studies and negotiations between the 7 cities and the county. It ultimately didn't go anywhere. The position taken was we couldn't come to terms over what was included within that agreement. The studies that were done at that time defined it

down to dwelling units. There hasn't been a master agreement since 2009. State law requires that this Commission cannot hear a project until there is an agreement. There is somewhat of a hammer for the agencies to come to an agreement. If the City and the County come to an impasse it will then come to LAFCO. It hasn't happened and he's tried to avoid it at all costs. He strongly feels that it's not a LAFCO issue per se, LAFCO has to make sure that we don't negatively impact an agency from our actions. The negotiations should be worked out between the agencies. One of the provisions is if the agencies declare an impasse, it would then come to LAFCO first only for the tax issue. There is a mechanism to go past that, but the two agencies should work it out. The one thing that I also think the City and the County need to recognize in the prior agreements was the tax sharing was specifically property tax. It has since morphed into TOT and other taxes.

Ms. Piedra stated we are using the same type of apportionment that was used in the previous master agreement. We've looked at how other counties are being done. We don't deny that there are impacts to the County, agencies, and infrastructure, however, we do believe that once a project like ICOE is annexed the City would then be responsible for issues like street improvements. It's important that we look at something that is fair. Keep in mind that when you're having the land annexed, the city is taking on the burden of servicing that area. It is something we are working on.

Commissioner Froelich asked if this tax sharing agreement is the same as the Lotus Ranch project that this Commission approved.

Ms. Piedra replied yes, it was basically the same agreement and percentages that were established with the master agreement.

Commissioner Froelich stated she can see where the County would want their fair share as well.

Mr. Heuberger stated in the past and for a long period of time we required fiscal impact reports on every project. These reports provided a better picture of where the costs were incurred and the revenues to a project came for or applied. As an example, we are working on forming a new special district known as the Rancho Los Lagos CSD. The fiscal impact analysis was just completed, and the developer didn't like the answers that came up and neither did the county. The fact is that it's in black and white and these are the costs. The report will reflect the impacts and the costs that someone will have to address. We got away from requiring a fiscal impact analysis on every project years ago because they can cost from \$30,000 to \$40,000. We might have to go back to requiring them.

Commissioner Froelich asked when the tax sharing agreement requirement began.

Mr. Heuberger replied that tax sharing agreements have been a requirement by law as long as he's been the Executive Officer which has been over 30 years. It's always been a requirement. It's just that

in the past there was probably more revenue and less issues with revenue and maybe not as high on the meter as it is now. Of course, every agency has financial issues that they have to contend with. In this case, ICOE is an entity that doesn't pay taxes, so we are talking about a zero-sum gain. The City of El Centro is using this as a vehicle and that's fine because there are other annexations pending. In the past the developers weren't so much interested in the agreements because it didn't have an impact on them. The agreements now include impact fees that the developer is expected to pay outside of the normal property taxes, so it's gotten to be less of a two-party agreement to more of a three-party and it's more complicated.

ICOE Superintendent Dr. Todd Finnell thanked the Commission and staff. He stated a lot of people in the community aren't aware of what LAFCO is and does. He thanked Mr. Heuberger and Ms. Graf as they've been extremely helpful throughout the process. He's glad that this has been a learning experience for Ms. Graf. It's also been a learning experience for ICOE as well. We are excited to be at the end of the process.

Commissioner Froelich asked if there is a current issue between the County and the City or can we move forward.

Mr. Heuberger replied the Commission can move forward, the tax agreement has been signed by both agencies. He would expect that the next annexation may take a bit longer.

Commissioner Jackson stated the issue and the reason the City of El Centro brought this up is to start the conversation. Under the old tax agreement, that's still somewhat being adhered to even though it expired in 2009. There are a lot of impacts to the applicant and the cities. One is the double paying of impact fees. If you have a private development, that developer would have to pay impact fees to both the city and the county. In some cases, the developer will approach the city stating that they paid the impact fees to the county and they ask if the city will waive or reduce them which puts a strain on the city. The tax sharing agreement as far as the property taxes are paid to the county for infinity even though all the burden as far as the upkeep of public works and public safety falls on the city. Like Ms. Piedra has stated, there is some impact to the county but what the City of El Centro is saying is that they want a conversation as to how the apportionment can be fairer going forward. Maybe the county still gets a portion but not forever since the responsibility falls on the city. City and County staff have been talking as long as he's been on the council. It's been brought up recently with the new County CEO. The conversation is to try and get a master tax agreement in place, so it's not project specific that each project has to go through the process.

No further discussion.

Motion by Commissioner West approving the annexation and sphere of influence amendment of ICOE (EC 2-17), Option #1 of the Executive Officers Report.

MOTION: West
AYES: Froelich, Jackson, Kelley, Castillo, West
ANO: None
ABSTAIN: None
ABSENT: None

Ray Castillo, Chair

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

Jurg Heuberger, Executive Officer