

MINUTES OF THE LAFCO MEETING

April 28, 2011

The County of Imperial Local Agency Formation Commission (LAFCO) convened a regular meeting on Thursday, April 28, 2011, at 8:30 a.m. in the City of Brawley Council Chambers, 383 Main Street, Brawley, California.

Commissioners present: Kelley, Snively, Ludwig, and Castillo.

Staff present: Executive Officer Heuberger, Legal Counsel Childers, Clerk Bruce, and Accountant Carter.

3. Approval of Minutes of February 24, 2011.

Motion made by Commissioner Snively, by unanimous roll call vote approved the minutes.

4. Approval of Consent Items:

- A. Approved budget line item appropriation transfer.
- B. Approve the purchase of a UPS System. (CANCELED by the Executive Officer)
- C. Approved authority of the Executive Officer to contract for GIS/CAED services.
- D. Approved report from Executive Officer on LAFCO Staff workshop.
- E. Approved report from Executive Officer on rents/leases.

Motion made by Commissioner Castillo and passed by the unanimous vote of all commissioners present to approve consent items A, C, D & E.

5. Public Comments: None.

ANNOUNCEMENTS

6. A. Update by CALAFCO Board representative, Commissioner Edney:

On behalf of Commissioner Edney, who was not present, Mr. Heuberger provided an update of the CALAFCO Board Meeting that he and Mr. Edney attended.

B. Announcements by Commissioners: None.

C. Announcements by the Executive Officer:

Mr. Heuberger introduced and welcomed new legal representative, Ryan Childers of Childers & Associates to LAFCO.

ACTION DIRECTION ITEM(s)

7. Discussion/Direction regarding the 1122 State Street building financing.

Mr. Heuberger provided options for refinancing the 1122 State Street building. He explained that the building has not been appraised since its purchase.

Commissioner Snively said that the savings over the long term would be considerable and it makes sense to reduce the principal balance over five years by refinancing.

Motion made by Commissioner Snively and passed by the unanimous vote of all commissioners present to pursue refinancing of the building by using a substantial portion of the trust fund set aside for the building and come back to the Commission with a plan.

Due to scheduled timing of Items 9, 10, & 11, the Commission first heard the following items and later returned to Item 8.

PUBLIC HEARING ITEM(S)

9. Public hearing to consider the approval of the proposed annexation BR 1-08, Rancho Porter, submitted by Development Design & Engineering, Inc.

Mr. Heuberger made the Commission aware that there was no Tax Sharing Agreement to date, so the project could not be approved. Attempts have been made since December 2010 by the City of Brawley and the County of Imperial to come to an agreement, but none has been made.

Gary Burroughs, Brawley City Manager, addressed the Commission confirming that attempts to finalize a Tax Sharing Agreement have been made since December 2010 via meetings, email, and phone calls, but no final agreement has been reached. It was previously suggested to take the most recent, previous Tax Sharing Agreement between the City of Brawley and the County of Imperial, and modify it to fit the current project. However, in the new agreement, impact fees were added and are what the City of Brawley could not agree to.

Mr. Burroughs requested LAFCO to participate in the Tax Sharing Agreement process to help come to an agreement sooner.

Mr. Heuberger said that the Commission could not approve the project, but could continue it for up to 70 days. He added that he has had weekly phone calls from the Applicant, frustrated that a tax agreement has not yet been made, but is not to the fault of LAFCO.

Commissioner Snively agreed that it is frustrating to everyone, hence its discussion during the last two LAFCO meetings and the inability to come to agreements.

County Counsel, Mike Rood, said that he was personally not part of the meetings with Brawley, but that it was imperative to continue. He requested the project be continued.

Motion made by Commissioner Snively and passed by the unanimous vote of all Commissioners to continue BR 1-08 for a period not to exceed 70 days.

10. Public hearing to consider the approval of the County Service Area Plan.

Mr. Heuberger reminded the Commission since the County Board of Supervisors approved a County Service Area Plan be done. He has actively met with County Departments to get it done. On this morning, prior to the meeting, Mr. Heuberger received recommended changes from the County Sheriff's Office.

Assistant CEO, Jerry Santillan, requested to have the item continued to allow the CEO's Office to meet with the County Fire and Sheriff's Offices to re-review the Service Area Plan, particularly concerning the Fiscal Analysis to new urban areas.

Mr. Heuberger requested to have the item continued for another 30 days or to the next LAFCO meeting to allow further review by the CEO's Office.

Motion made by Commissioner Snively and passed by the unanimous vote of all Commissioners to continue the County Service Area Plan to the following LAFCO Meeting on May 26, 2011.

11. Discussion/Direction/Approval regarding the LAFCO Draft 2011/2012 Budget for the upcoming fiscal year.

Mr. Heuberger reminded the Commission that they have until May 1st to adopt a Draft Budget for LAFCO and until June 15th to adopt a Final budget.

Mr. Heuberger noted that this year's budget has no overall increase in costs and the same bottom line as last year's budget. He also said that with no Special District representation on the Commission, they do not have to pay into LAFCO's budget. Therefore, 50 percent of LAFCO's budget is paid by the County and the other 50 percent is paid by the seven cities. Mr. Heuberger also pointed out that this will be LAFCO's first year with full independence and staffing.

Deputy CEO, Joe Picazo, had questions regarding contingencies, carry-overs and fees. He also discussed reimbursements due to the County for legal counsel and staff time. He requested more information on how the costs were developed and the square footage of the suites rented out by LAFCO. He questioned how the budget was arrived to in an effort to reduce the County's costs.

Commissioner Snively clarified to those in the audience who were unaware of the working arrangement between the County and LAFCO, in which LAFCO reimbursed the County for County staff that worked on LAFCO business. Mr. Snively continued that LAFCO has been urged for some time to become independent, but also pushed away by the County when County staff was taken away from LAFCO's use. Mr. Snively commented that he was offended that the County of Imperial could place so much blame on LAFCO and wished that they would put the same amount of effort they have put into our budget into developing a Tax Agreement for BR 1-08.

Commissioner Kelley asked when the reimbursement agreement between the County and LAFCO was approved and if LAFCO was ever invoiced for County reimbursement.

Mr. Picazo answered that the reimbursement agreement was approved on October 2, 2008 by the County Board of Supervisors, and in a letter to LAFCO from the CEO's Office dated January 19, 2011, they requested reimbursement for staff time and requested that the letter stand as an invoice.

By the preference of LAFCO Accounting, Commissioner Kelley requested the CEO's Office to submit an invoice to LAFCO.

Mr. Picazo continued by questioning the various Line Items.

Mr. Heuberger clarified that the number is based on what has been spent this fiscal year and the anticipated costs for next year. He continued that LAFCO has always under spent on nearly every line item. Mr. Heuberger suggested reducing LAFCO's budget by \$20 thousand, but pointed out that if LAFCO needs more money during the year, they are required to attain funds from the County first.

Motion made by Commissioner Snively and approved by the unanimous vote of all commissioners present to approve the tentative Draft Budget with a possible \$20 thousand reduction.

Before proceeding to the next item, Commissioner Snively thanked the City of Brawley for allowing us the use of their Council Chambers.

8. Discussion/Update/Direction related to the functionality and service authority of certain special districts:
- A. Winterhaven Fire District
 - B. Winterhaven Water District
 - C. Niland Sanitary District
 - D. Heber Public Utility District

Mr. Heuberger began by discussing the financial issues of the Niland Sanitary District and Winterhaven Water District.

Mr. Heuberger discussed a meeting held with LAFCO and former members of the Winterhaven Fire District. He said there are a range of concerns and questioned at what point does LAFCO interfere. As LAFCO, we have the ability to dissolve a district and reform or merge it with another district. In regards to the hefty amount of personnel issues within the district, LAFCO's main concern is that of fire protection for the residents of Winterhaven.

County Fire Chief, Tony Rohoutas said that responsibility of the fire district falls into the hands of the Winterhaven Fire Chief and that he personally does not have control over it. He has heard about the personnel issues at the District.

Commissioner Kelley said now that the issue has been brought to the Commission's attention, it cannot be ignored.

Commissioner Kelley opened the floor to the public.

Winterhaven Fire Chief, Steve Taylor said that none of these issues have been brought to his attention and requested to be included in future meetings.

Former Assistant Fire Chief, James Merton confirmed that issues do involve personnel matters but his biggest concern is that of the safety for the residents of Winterhaven and fire personnel. He spoke of a recent incident within the district where 3 firefighters were injured due to unsafe practices and direction.

Winterhaven Fire Prevention Officer, Yuriko Maeda said that she has filed an EEOC complaint against the district and has been harassed, discriminated against, and retaliated against.

Commissioner Kelley recommended that LAFCO look into the funding mechanism of the district and the amounts.

Commissioner Castillo said he originally thought that replacing the two empty chairs on the board might help the situation, but after hearing all the complaints, something needs to be done. He suggested that LAFCO get together with the County for a full inquiry.

Mr. Rood said that the district is a separate entity and encouraged the personnel issues to be solved within the district and that LAFCO should stick to dealing with the finances and safety of the district.

Winterhaven Fire Captain, Casey Wheelock apologized for any money being spent on the investigation but said that we are misguided and pleaded for an investigation.

Discussion determined that the department consists of both volunteer and paid employees.

Mr. Heuberger announced that with the permission of the Commission, he would like to conduct an investigation, not to intrude with the District Attorney's investigation, if there is one. He will report back to the Commission on the matter.

Mr. Heuberger presented a request for Heber Public Utility District to create an Interim Agreement for Services to be served outside the district boundary. The agreement will provide limited uses, solely an extension of services and will only be for a limited time.

13. Adjournment

The meeting adjourned at 10:20 a.m.

Mike Kelley, Chairman



Jurg Heuberger, CEP, AICP
Executive Officer to LAFCO