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CITY

Jason Jackson

COUNTY

Michael Kelley

COUNTY

Raymond "Ray" Castillo

PUBLIC

David H. West, Chairman



ALTERNATES

CITY

Jim Predmore

COUNTY

Luis Plancarte

PUBLIC

Ralph Menvielle

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EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL
Ryan D. Childers

ACTION MINUTES OF THE REGULAR LAFCO HEARING

February 23, 2017

8:30 a.m.

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

VOTING COMMISSIONERS PRESENT:

David West, Chairman
Maria Nava-Froelich, Vice Chair
Jason Jackson
Ray Castillo
Luis Plancarte

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

Michael Kelley

STAFF PRESENT:

Jurg Heuberger, Executive Officer
Julie Carter, Accountant
Paula Graf, Clerk
Ryan Childers, Legal Counsel

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

Necessity Item for Addition to Agenda

Legal Counsel Mr. Ryan Childers stated the record will reflect Commissioners West and Jackson have recused themselves from the discussion/action of adding this item to the agenda due to a conflict of interest. The document that has been provided to the Commission indicates a closed session item for potential litigation. The potentiality of litigation came to the attention of staff after the original agenda had been posted. This item requires immediate attention by the Commission and under The Brown Act this item can be added as a necessity item to the agenda if the Commission finds that those two circumstances exist and then votes with a two third majority which

in this case would be the entirety of the remaining members that the item should be added and we would take it up at the end up the meeting in closed session.

Motion by Froelich to add the necessity item to the agenda and passed by the roll call vote of Froelich, Castillo and Plancarte.

3. Election of Officers for 2017

Motion by Commissioner Castillo to elect Commissioner West as Chair and passed by the roll call vote of Froelich, Jackson, Castillo, West and Plancarte.

Motion by Commissioner Jackson to elect Commissioner Froelich as Vice Chair and passed by the roll call vote of Froelich, Jackson, Castillo, West and Plancarte.

4. Approval of Minutes from December 15, 2016

Motion by Commissioner Castillo to approve the minutes with revisions and passed by the roll call vote of Castillo, West, Jackson and abstained by Froelich and Plancarte.

5. Approval of Consent Items:

A. Project Report Update

Motion by Commissioner Castillo to approve the project report update and passed by the roll call vote of Froelich, Jackson, Castillo, West and Plancarte.

6. Public Comments:

None

ANNOUNCEMENTS

7. A. Announcements by the Commissioners.

Commissioner Froelich stated the Calipatria Union School District has a Family Resource Center and has contracted with the County of Imperial Behavioral Health, County of Imperial Workforce Development formerly known as the One Stop, and County of Imperial Social Services. There are programs for youth, young adults, and children. Commissioner Froelich stated she is excited and would like to pass the word around about these services for the North end community reaching Salton City, Bombay Beach, Niland and Calipatria.

Commissioner West stated he attended the Southern Region LAFCO meeting along with Commissioner Kelley. Commissioner Kelley sits on the CALAFCO Board. NWD was in attendance and gave a presentation about water. CALAFCO Executive Director Pamela Miller spoke about moving in the right direction and providing more training to the local LAFCO's so we can understand how to better help the communities. One concern is the image of LAFCO lobbying. LAFCO is not a lobbying organization, LAFCO is a legislative organization. CALAFCO is going back to the roots and doing what is best to help the communities. Commissioner West thanked Commissioner Kelley for the hard work and time that it takes to obtain representation for Imperial County at the state level.

B. Announcements by the Executive Officer

Mr. Heuberger stated Mr. Jack Terrazas has served on the LAFCO Commission for many years and it's with a great deal of pleasure and also sadness to present Mr. Terrazas with a plaque for his dedicated services as a LAFCO Commissioner. Mr. Terrazas has served on the LAFCO Commission for a number of years.

Commissioner West presented a plaque to Mr. Terrazas in appreciation for dedicated services as a Commissioner to LAFCO of Imperial County.

Commissioner Castillo stated he has worked with Mr. Terrazas for many years at the County and prior to that on the City Council. Commissioner Castillo stated Mr. Terrazas has been a role model and also a mentor throughout the years and wishes him the best.

Commissioner Froelich stated she met Mr. Terrazas back in 2008 while running for the Board of Supervisors. Mr. Terrazas is very eloquent when he speaks and Commissioner Froelich is proud to be a good friend of his. Commissioner Froelich has worked in the past with Mrs. Terrazas on a business level and wishes him the best and he will be missed.

Commissioner Jackson stated Mr. Terrazas was one of his little league coaches and has known him for a long time. Mr. Terrazas has been a mentor to Commissioner Jackson and many others at one point in their careers and has enjoyed seeking him for advice and to steer him in the right direction. Mr. Terrazas has always carried himself well, with integrity and honor. Commissioner Jackson has enjoyed his leadership and knowledge and wishes him the best.

Commissioner Plancarte stated he approached Mr. Terrazas about twenty years ago and inquired on how he could get involved in the community. Several months later Mr. Terrazas approached Commissioner Plancarte in regards to appointing him to the planning commission. Commissioner Plancarte was nervous at his first meeting but Mr. Terrazas was present to provide support. Commissioner Plancarte thanked Mr. Terrazas for the support as a mentor, a role model and a guide. Commissioner Plancarte has followed in Mr. Terrazas footsteps. Mr. Terrazas is an example of what a member of the community should be, a volunteer, husband, father and a man of faith. Commissioner Plancarte thanked him and wishes him the best.

Mr. Heuberger stated he worked with Mr. Terrazas at the County for many years. From a staff perspective Mr. Terrazas was professional and very helpful. As an elected official it can be a challenge to work with boards when the topic is a controversial item. Mr. Heuberger stated he has appreciated the many years of help from Mr. Terrazas.

Commissioner West stated he has known Mr. Terrazas for many years and since he is retiring Commission West has asked Mr. Terrazas to help out with his insurance business. Mr. Terrazas is a great motivator whether it's in the office or playing golf. He has a way of making others feel comfortable. Commissioner West thanked Mr. Terrazas.

Mr. Terrazas stated he's had a wonderful experience with everyone and it has been a pleasure to work with everyone and on the LAFCO Commission. It's a pleasure working with others who are willing to learn and also willing to educate others. He stated everyone comes from different backgrounds with different ideas, and different concepts. It's important to keep an open mind and a willingness to learn. It doesn't matter how long you've been around you always learn something from somebody. Mr. Terrazas thanked everyone.

Mr. Heuberger stated Commissioner Kelley requested that the LAFCO consider a contribution of \$1,000 to the CALAFCO for the annual conference that is taking place in October of 2017.

Legal Counsel Mr. Ryan Childers stated since this item is not on the agenda and is not an item that requires formal action, the LAFCO can move forward with the contribution unless the Commission objects.

No objections were made, the LAFCO will move forward with the contribution of \$1,000 to CALAFCO.

DISCUSSION/ACTION/DIRECTION ITEMS

8. Discussion/Action/Adoption of the Draft LAFCO Budget for FY 2017/2018

Mr. Heuberger stated as you know, the way LAFCO law is written we have to prepare a draft budget and present to your Commission and also present a final budget to the commission to be adopted by June 15th which usually means the final budget has to be adopted by May. In order to give the County and the Cities notice, state law requires a draft budget be available for comment. Since the LAFCO does not have a special district representation, the funding comes from the Cities and the County.

Commissioner Froelich and Commission Jackson stated Item 8 was missing from their packet. Replacement copies were provided.

Mr. Heuberger stated the proposed budget is in the amount of \$664,663. In the past the Commission established a contingency fund for \$100,000 to cover unexpected expenses. Recognizing the LAFCO is funded once a year, if a major emergency were to occur then the County would have to front the money to LAFCO and then get reimbursed. In order to avoid that, the LAFCO established a contingency fund. We have also discussed raising the contingency fund to replace the building in the future, however it is not being recommended at this time. We do not have a line item for litigation at this time. For those who have attended the LAFCO conferences, you may have noticed a theme that litigation is prevalent among the LAFCO's throughout the state. The LAFCO's have recommended for us to establish a litigation line item. Even though our policy says that if we have litigation against us for a project, we do not defend it unless the applicant fully funds up front the entire cost of litigation. If the LAFCO were sued, we would immediately notify the applicant and if the applicant did not fund the litigation the project would be denied.

Commissioner West asked if the amount would be part of the contingency amount.

Mr. Heuberger replied no, the litigation fund would be a separate line item.

Commissioner West asked how much the litigation line item would be.

Mr. Heuberger responded the amount would be \$40,000. For the record the LAFCO has had one lawsuit in the thirty years that Mr. Heuberger has been Executive Officer and that lawsuit was resolved prior to going through litigation.

Commissioner Froelich asked if the LAFCO gained an employee and is the reason for the salary line item increase.

Mr. Heuberger responded the Commission approved a limited term position last year to assist while an employee was out due to health reasons.

Commissioner Froelich asked for more information regarding the office supply, electronics and software line items.

Mr. Heuberger stated we have a couple of expenses for these line items. The LAFCO has an IVTA license fee of \$5,200, GIS, AutoCAD and Microsoft license fees. Also included is the replacement and maintenance of the server. The office expenses are high due to the fact that we had two projects which were not funded by the applicant. Those are the Niland Fire District and the Winterhaven Fire District dissolutions. Those two projects have amounted to a lot of paperwork. During the December meeting, a recommendation was made that if there are any assets that come out of the dissolution, the LAFCO is requesting reimbursement from those assets for the dissolution costs incurred, however that is not guaranteed.

Commissioner Froelich asked for more information regarding the travel out of county line item.

Mr. Heuberger responded the travel line item is for the Commissioners to attend the annual CALAFCO conference and the staff to attend the staff workshops.

Commissioner West responded it's also for the Southern Region meetings which have been cut back from four to two a year. It covers the travel for Commission Kelley to attend the CALAFCO Board meetings.

Commissioner Froelich asked if it also covers a car allowance for Mr. Heuberger.

Mr. Heuberger responded a car allowance is allowed but he does not submit an expense for it or for mileage.

Commissioner Castillo stated the County's contribution this year will decrease which is positive and mentioned the rent income increase.

Mr. Heuberger responded that the LAFCO building is 100% occupied and from his knowledge we are the only LAFCO in the state that has income property.

Motion by Castillo to approve the Draft Budget as presented and passed by the roll call vote of Froelich, Jackson, Castillo, West and Plancarte.

9. Discussion/Action/Direction regarding the status of the Service Area Plan (SAP)/Municipal Service Review (MSR) for the Niland Sanitary District.

Mr. Heuberger stated the NSD Chairperson Ms. Debbie Salas is present today and can also weigh in on the discussion. The LAFCO has been working with the NSD to finish the Service Area Plan review update. The district is in severe financial constrain, has a major fine from the RWQCB and the operational system needs fixing and upgrades which is the reason for the fine. During the past year Chairperson Ms. Salas has being trying to get organized and back on track, however that's not to say the prior staff had failed. The County, RWQCB, USDA, NADB, and BECC have been working to assist the district to get them on track. If the district fails and comes back before the LAFCO then we would have a dilemma. The LAFCO has the authority to dissolve the district but this is not the same situation as the Niland Fire District dissolution for example because the County had already taken over. There are several caveats as part of the districts potential grant funding. In order for the district to obtain grant funding, a rate increase will have to be approved through a Prop 218 vote with the residents. Mr. Heuberger attended a district hearing and stated a large number of residents are opposed to a rate increase and that may be due to a lack of fully understanding the reasons for the increase. If the Prop 218 does not pass, then the grant funding

will not be available. Months back Mr. Heuberger scheduled a meeting with all of the agencies to go over what options were available to assist the district. The original fine from the RWQCB was decreased to \$133,000 from an estimate of \$4,000,000. The RWQCB cannot waive the remaining \$133,000 and the fines cannot be paid from grant funding. The County would loan the \$133,000 to the district and that would allow USDA and NADB to step in and fund the upgrades. All of these components are in place but are dependent upon a Prop 218 pass. If the Prop 218 passes, then the district would be going in the right direction. Mr. Heuberger is working with the County to see what assistance they may be able to provide with the Prop 218 process. Mr. Heuberger stated the district is an oddity because it's a single entity sewer district and is unsure who would take it over if it was dissolved.

Commissioner Froelich asked if the County would take over the district.

Commissioner Castillo responded the County is not liable to take it over. The County in the past have assisted the Palo Verde and the Winterhaven communities and educated the residents on why it's important they approve a Prop 218 rate increase. The rates in comparison to other communities in the County are much lower and justifies the increase.

Mr. Heuberger stated the LAFCO and the County assisted Palo Verde in a similar situation and the Prop 218 was passed.

Commissioner Froelich asked what the proposed rate increase is and when compared to other communities the rate may not be high but the fees are included with the property owners tax bill.

Mr. Heuberger responded the property owners are billed on an annual basis through their property tax bill.

Debbie Salas stated the rate increase is proposed at \$58.00 with an effective date of July 1, 2017 and at \$68.00 with an effective date of July 1, 2019. The current rate is \$37.70. One connection is \$452 per year.

Commissioner Froelich stated many residents who resided in Niland have since relocated due to being unable to pay and the concern is the few residents that are left having to carry the weight of paying for the system.

Mr. Heuberger responded that was the case in Palo Verde. There were a small number of connections that had to pay for the system.

Commissioner Castillo stated there is a misconception that the County is responsible and that is not the case. As an example back in the 70's the Board of Supervisors were made the Directors for the Barbara Worth Sewer and Maintenance District. The district had system failures and the residents were under the assumption that the County was responsible for paying for the repairs which is not the case. The residents that receive the services are responsible for paying, not the entire County.

Commissioner Froelich asked if the County was going to loan the \$133,000 to the district.

Mr. Heuberger responded the County would loan the \$133,000 to the district upon a Prop 218 pass.

Commissioner West asked Ms. Salas what she thinks the possibility of the Prop 218 passing.

Ms. Salas stated she has been speaking to the residents regarding the Prop 218 rate increase and explaining the process of why the increase is needed. Some residents are understanding but they are on a fixed income.

Commissioner West stated the worst case scenario would be the state come in and condemn Niland and the residents would be evicted.

Ms. Salas stated I.C. Economic Development Manager Ms. Esperanza Colio will be attending the March 9th district hearing to explain the potential loan to the district. There is also a meeting in Needles, CA on March 9th with the RWQCB.

Commissioner Froelich stated there had been talk regarding Calipatria taking over the Niland Sanitary District.

Mr. Heuberger stated years ago that was an option that was looked at but the City of Calipatria could not justify it economically.

Commissioner Froelich stated the City of Calipatria has the capability.

Mr. Heuberger responded it could be looked at, but even if that is an option there would be a substantial cost and would still need a rate increase.

Commissioner Jackson asked how many sewer connections are active and what is needed for the Prop 218 to pass.

Salas responded there are 453 connections and a 51% approval vote is needed for the Prop 218 to pass.

No action was taken.

DISCUSSION/ACTION/DIRECTION ITEMS

10. **Public hearing to consider the approval of the Service Area Plan (SAP)/Municipal Service Review (MSR) for Cady Poe Colonia (CSA 1-16)**

Mr. Heuberger stated this is a Service Area Plan/Municipal Service review update. Years ago the County received grants to provide sewer services to a small area just outside of the City of Brawley that had failing septic tanks. Among the options to provide the services were the City of Brawley taking over, a joint sewer system between the City of Brawley and the City of Westmorland, or to form a County Service Area. A County Service Area was formed and is governed by the County Board of Supervisors. The I.C. Public Works has submitted a fully updated report and Mr. Heuberger is recommending approval.

Commissioner Froelich asked if any comments were received by the City of Westmorland.

Mr. Heuberger replied that Westmorland had not submitted any comments.

I.C. Public Works Director Mr. John Gay stated he is here to answer any questions the Commission may have and the consultants that prepared the report are also present.

The Commission did not have any questions.

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

11. **Public hearing to consider the approval of the Service Area Plan (SAP)/Municipal Service Review (MSR) for the Niland Service Area No. 1 (NSA 1-16)**

Mr. Heuberger stated this is a Service Area Plan/Municipal Service Review update. The Niland Service Area No.1 is a County Service Area that is governed by the Board of Supervisors. This is a lighting district for the Niland town site and that is the only service provided. Mr. Heuberger has reviewed the plan as submitted and is recommending approval.

Commissioner Froelich asked how often the Service Area Plan/Municipal Service reviews are required to be updated.

Mr. Heuberger responded the reviews are required every five years.

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

12. **Public hearing to consider the approval of the annexation of Justo Felix (IM 3-15)**

Mr. Heuberger stated the Commission typically will not hear a project unless the fees have been paid and the account is current. An invoice was sent to the applicant but remains unpaid. The Commission will need to decide if the item will be heard or continued.

Commissioner West asked if the Commission needs to take action if the item is heard.

Mr. Heuberger responded the item could be heard but no action would need to be taken since the item would be continued.

Legal Counsel Mr. Ryan Childers stated the public hearing would not be called, however the public and the applicant can comment. The Commission would continue the item so that the fees can be paid.

Commissioner Jackson asked if there are members of the public in attendance for this item.

Commissioner West responded there is a spokesperson for the residents in the audience.

Manager for the applicant Ms. Ana Vizcarra asked if the project would be approved. She stated she is in charge of payment and it will be processed.

Commissioner West responded and suggested the applicant meet with the LAFCO staff. He stated that payment doesn't guarantee an approval of the project, payment is for the processing fees to come before the Commission.

Mr. Heuberger stated the past due amount of \$2,087.11 is for the processing fees to come before the Commission.

Commissioner Froelich asked if the applicant is prepared to pay the invoice.

Ms. Vizcarra responded yes the applicant is prepared to pay the invoice.

Commissioner West stated the check will need to be cleared prior to scheduling for the next hearing.

Commissioner West stated he received a phone call from Mr. Fernando Arguelles last week regarding this project. Mr. Arguelles stated he spoke with Mr. Heuberger and was advised to attend the hearing by both Commissioner West and Mr. Heuberger.

Mr. Fernando Arguelles provided a packet to the Commission including a statement opposing the project. Mr. Arguelles read the written statement to the Commission and stated the fact of the matter is this parcel is already operating as a truck parking and storage without due consideration to the residential subdivision residents. Many safety issues were clearly never addressed or mitigated by the City of Imperial such as street improvements, lighting, turning lanes into and out of property, widening of the street, and onsite parking lot improvements. The safety of the school children from the residential subdivision was clearly ignored as this section of the street is used daily by the Imperial School District school bus to pick up school children. Mr. Arguelles stated he is asking the Commission to consider the denial of the annexation and has also provided a copy of a building permit that was issued back in 2015 for a temporary mobile office, electrical and two containers. It doesn't sound like a permit to start a trucking operation. Mr. Arguelles stated he is requesting the Commission deny the project because the issues have not been addressed or taken into consideration and notifying the taxpayers in the subdivision immediately adjacent to the property. Included in the packet is a list of signatures from the residents opposing the project.

Commissioner Jackson asked what the distance is between the project and the residential subdivision.

Mr. Arguelles responded that it's immediately adjacent and the traffic is blocked because of the trucks entering the property and due to it being a two lane road.

Commissioner West asked if the signatures opposing the project are from residents immediately adjacent to the property.

Mr. Arguelles responded yes, the signatures are from the residents across the street from the project.

Mr. William Blanchett stated himself and a neighbor obtained the signatures.

Commissioner West stated as a LAFCO we can look at traffic and also ask if the proper notifications were sent out by the City to the residents. The City has to notify landowners within 300ft of a project. Commissioner West asked if the City sent notifications.

City of Imperial Planning Director Mr. Jorge Galvan stated that two public hearings were held by the City of Imperial. Notices were sent out to property owners within 300ft of the project inside and outside of the City limits. There were a good number of residents that were notified. Since the property is not in the City, the City cannot enforce any conditions until it is annexed. The City reviewed the traffic and there are conditions attached to this project. One of the requirements is to push the fence further away from the street to provide a stacking area so the trucks will not block the traffic in the center lane. The City approved the annexation in order to address these issues but cannot enforce them at this time since the property is still in the County.

Commissioner West stated that although the law states notification has to be within 300ft of the project, in reality to take a look at the entire project, it would have been better to send out notifications to a wider area.

Commissioner Froelich asked if there were a good group of people that showed up at the City hearings.

Mr. Galvan Jorge responded that there were not.

Commissioner Jackson asked if the area where the fence is being moved and the turnout will be paved.

Mr. Galvan responded the area will be paved. The fence line will be moved at least 20ft back and the gate would be moved back another 100ft or so. There will be an acceleration and deceleration lane for southbound traffic so the trucks could pull into the property.

Legal Counsel Mr. Ryan Childers stated we are pushing the boundaries since we did not call the public hearing. He suggested if there are specific issues or concerns the Commission would like to address then we can have staff contact the City to discuss those issues.

Commissioner Jackson stated that he would like to recommend that I.C. Planning be present at the next hearing.

Motion by Commissioner Castillo to continue this item to the next hearing and passed by the roll call vote of Froelich, Jackson, Castillo, West and Plancarte.

EXECUTIVE SESSION

The record will reflect Commissioner West recused himself from the executive session due to a conflict of interest.

Legal Counsel Mr. Ryan Childers stated there were three potential items that would have been discussed, however only one item was discussed.

Direction was given but no action was taken.

David West, Chairman


Jurg Heuberger, AICP, CEP
Executive Officer to LAFCO