
COMMISSIONERS

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

May 23, 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
Ed Snively

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

David H. West

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.

3. Approval of Consent Items:

- 3A. Minutes from April 4, 2019
- 3B. Project Report update

Motion by Commissioner Jackson approving Items 3A & 3B.

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

4. Public Comments

No public comments were made.

ANNOUNCEMENTS

5A. Announcements by the Commissioners

Commissioner Kelley stated he attended the CALAFCO strategic workshop a few months ago and attended a meeting on May 10th for the Board of Directors. It was a long meeting that dealt specifically with the increase in dues across the LAFCO's to keep CALAFCO solid because we are involved in diminishing returns in respect to the budget. We came up with an agreement and he doesn't know if that topic has been sent to all of the Executive Officers.

Mr. Heuberger replied it was sent to all Executive Officers.

Commissioner Kelley stated the annual conference is in October and at that time the CALAFCO Board will finalize the recommendations from the ADHOC Committee to the full board. The full board's action will then be voted on by the members. We went over the budget and came up with an equitable solution for the statewide dues increases. There was a lot of input from the southern region that was considered, and his motion was based on the southern regions recommendations on the dues increase. That motion passed, and he arrived home about 10pm that night. It was a long day. Commissioner Kelley stated Commissioner Snively wanted an update on the County's cyber security issue. He attended an RCAC meeting in Death Valley a couple of weeks ago and gave an update on what happened to Imperial County in regard to the ransomware. There was a two-hour discussion on what the county should be doing or what they were doing. The county was notified on a Saturday night that the entire system was encrypted and there wasn't any access. One of the questions was if there was security software set up. There was but it was a very poor security software. On Sunday the county received a ransom note requesting \$1.2 million dollars to get the key to regain access to the system. Even if the county paid the ransom and received the key it would have taken up to three weeks to open it back up. A special meeting was called on a Monday and the Board of Supervisors in unison said hell no to the ransom. The result of that was the county contacted and hired some forensic engineers to come in and work with the encrypted system. We had a \$2 million-dollar insurance policy with a fifty thousand-dollar deductible. To date there has been about \$1.2 million dollars spent getting the system back up and running. It was back up and running in three weeks otherwise it would have taken six weeks. There have been a lot of safeguards put in place. It's an issue that's been happening throughout the nation. There was an update the other day that it

happened to several cities. Some have paid, and some haven't. The initial ransom request for some cities was fifty thousand dollars. He asked the question the other day if the ransom was fifty thousand would the county have paid it and the answer was we might have paid. The system is back online with safeguards and there was no information lost. With Commissioner Castillo's support, he made a comment that the county needs to have a backup system installed as a backup plan if it happens again. The county was criticized by the real estate community because their businesses stopped functioning. They couldn't go the recorders and process what they needed to do. In the future every department needs a backup plan in case this happens again. It was a horrible and costly experience, but we took a stand and did the right thing. The RCAC are coming up with a coalition on how to deal with these types of issues should they come up in the future and how they should be dealt with in respect to their own security. It wasn't a pleasant issue and the most important thing was no information was lost and he doesn't think the ransom people could have access to anything. Sometimes when he opens his e-mail he must check the junk mail file now to see who is e-mailing him, so he can flag it. It was a tough situation, but the county survived it. A question was asked as to why the county was hiding information, he wanted the community to know what was going on. The FBI was involved and if it was made known publicly that the county wasn't going to pay the ransom it could have caused the hackers to further damage the system. He thinks that the community should know what's going on.

Commissioner Castillo stated there were several hundred new computers that were needed because of it.

Commissioner Froelich stated she attended an ICTC meeting last night that included the budget. Caltrans has a lot of projects going on. This morning and the coming weeks Caltrans will be cleaning up a lot of the shrubs that grew because of the rain. ICTC will be having a general assembly including an all-day training and workshop on May 30th. It's open to the public and elected officials. The City of Calipatria is re-establishing the Lions Club. There are currently 32 members and it's open to the public. We will have a charter ceremony night on June 1st. There will be a social hour from 5-6, a dinner from 6-7, pinning of the members at 7, followed up with a dance. The City established a parks and recreations committee to help out with the parks and programs for the youth. There are community members that have volunteered and have started a beautification committee. The city is planning a state of the city for late September that will be in the form of a mixer with the Calipatria Chamber of Commerce. All will be invited and there will be more news to come. ICTC is also becoming a COGG and if the assembly bill passes to modify some of the ICTC duties, it would be effective in January 2020.

5B. Announcements by the Executive Officer

Mr. Heuberger stated the Southern Region had several meetings and made recommendations to not only increase the fees to meet the budget deficit but to also improve some of the CALAFCO

functions. CALAFCO's Executive Director Pamela Miller has limitations on how much time she spends on lobbying since CALAFCO is a 501c3. Lobbying isn't the mission but it's a part of it. The southern region felt the need to improve the service capabilities of the CALAFCO staff and the recommendations were taken into consideration, not all but for the most part. We were criticized for making the recommendations because of the dues increase but in reality, the six southern LAFCO's pay almost half of the CALAFCO functions dues. The recommendation wasn't made to shift the burden from the northern or central section. The impact to us is about an \$800-\$1,000 increase from \$2,800 to about \$3,600. The members will vote at the annual conference in October. The annual conference will be from October 30-November 1st in Sacramento. We've budgeted for all commissioners to attend. CALAFCO asked the southern region to sponsor and host the next workshop in 2020. The workshop will be in Orange County and co-hosted by Imperial. It doesn't involve much of a budget, mostly staff time. We are working with Orange LAFCO to make it happen. We are working with the Disney resort hotel along with some others. The next southern meeting will be held in June in Santa Ana.

Commissioner Kelley stated the CALAFCO office has relocated from the RCRC office to another location not far. RCRC had expanded and asked CALAFCO to vacate. Pamela Miller was able to find another location quickly.

Mr. Heuberger stated we are working on the formation of the Rancho Los Lagos Community Services District. It's an ongoing effort and taking much longer than we originally thought and it's been complicated. The project is by the Benson family and is south of the City of Brawley. The district if formed, would have to obtain water from the City of Brawley.

Commissioner Kelley asked if it was the Keystone Industrial Park.

Mr. Heuberger replied no, it's right next to it. The new district would have to obtain water from the City of Brawley. That doesn't mean that Brawley would have to provide water to the district and manage the meters. It would be more of a bulk water sale to the district. The district would purchase the water at wholesale and be responsible for the distribution. Brawley has an issue with being forced with providing water to the district. It's a requirement of the State not LAFCO. The state sent a letter stating that this is how it's going to be. The state doesn't want to see new water treatment systems if there's an alternative. They would rather see an expansion of a current system. It's creating a bit of a problem and he's met with both the City of Brawley and the County. When this item comes before the Commission, the Commission must make a finding that the district is financially sustainable. If the Commission cannot find that the district is financially stable, the formation cannot be approved. We've hired a consulting firm to complete a fiscal analysis.

Commissioner Kelley asked if the financial stability is based on the tax revenues.

Mr. Heuberger replied both the tax revenues but primarily the fees. The tax base is split with the County. The sustainability isn't really a reliance on the taxes but how we structure the fee system and any special tax. There is a special assessment on the property owners for the Gateway CSA, that assessment is steep at approximately \$800 per acre.

Commissioner Kelly asked if the funds could cover services such as fire.

Mr. Heuberger replied that the revenues would need to cover all the services that the district intends to provide. If he understands the resolution that the county passed, the county wants the district to provide all services. It would be treated similar to a city. All those factors must be looked at in the fiscal analysis. That analysis has been shared with both the City of Brawley and the County. He will meet with the county next week. That fiscal analysis along with a fiscal analysis the applicant prepared show a major deficit based on fees. There must be a system, and the recommendation of the consultant is a special assessment against the properties. A concern that's been made clear to the county is that the county becomes the director of the CSD until there are enough voters. This Commission cannot form a district that impacts the entity that would oversee it. It's almost as getting close to what we would have to do to incorporate a city.

Commissioner Kelley stated that Brawley might not be happy with providing water but what about wastewater.

Mr. Heuberger replied that the state isn't requiring the district to obtain wastewater services from the city. From a feasibility standpoint it couldn't be accommodated. The district will need its own wastewater treatment plant. The water plant is nearly 1.5 miles away. He went before Brawley's City Council and made it clear that LAFCO isn't the one requiring it, it's the state. The letter from the state is terse.

Commissioner Kelley asked if Brawley could just deny it.

Mr. Heuberger replied no, he spoke with the writer of the letter from the state and was told if the city doesn't comply, he will come down and explain it to the city. That's the background and we are working with the applicant, county, and the city of Brawley.

Commissioner Froelich asked if the district would be identified as an unincorporated townsite like Niland.

Mr. Heuberger replied no, it would be a special district like HPUD or SCWD.

Commissioner Froelich stated it will come before the Commission once it's much further along.

Mr. Heuberger stated he was hoping to have this item before the Commission by the end of the summer but that won't happen. The Commission must consider a number of factors, the key is the Commission cannot approve the formation if the facts presented show that it's not financially sustainable over the next 20-30 years. If the report shows that it's sustainable for the first five years, then it goes in the negative and unless there's a solution it cannot be approved.

Commissioner Froelich asked how many homes would be constructed.

Mr. Heuberger replied several thousand.

Commissioner Snively asked if it could be annexed to Brawley.

Mr. Heuberger replied no since it would create an island since 101 is intervening. Brawley has made it clear they wouldn't want to annex in part because they already have 1,000 already approved vacant lots.

DISCUSSION/ACTION/DIRECTION

6. Discussion/Action/Direction regarding Childers and Associates contract extension

Mr. Heuberger stated Childers and Associates have been our legal counsel for several years now. The contract is now expired, and we are asking for an extension to that contract.

Commissioner Kelley asked for clarification on what the pass-through rate means on the contract.

LAFCO Legal Counsel Mr. Ryan Childers stated when a developer has a project and if there's legal review or legal work that's done and related to that project or there's litigation, they indemnify LAFCO, so the developer pays for it. The idea is that they would pay the rate that someone would pay if they hired him from the outside. He's consistently set the hourly rate with LAFCO at \$100 an hour less than what the regular hourly rate is.

Commissioner Kelley stated the hourly rate is \$225 and the contract shows a pass-through rate of \$325. Is the \$325 hourly rate the rate that LAFCO would pay if the services were above and beyond what would normally be provided.

Mr. Childers replied that LAFCO would never pay the \$325 rate, that rate is if a third party is paying costs through LAFCO, reimbursing LAFCO essentially.

Motion by Commissioner Kelley approving a three-year contract extension with Childer's and Associates, Option #1 of the Executive Officers report.

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

7. Discussion/Action/Adoption of the Final LAFCO Budget for FY 2019-2020

Mr. Heuberger stated this item is the proposed final budget. The budget was presented in draft back in March and was made available to all member agencies. It's the same budget that was presented in the draft stage. By state law we are required to submit this to the various agencies no later than June 15th. We try to do it as early as we can because the cities and the county work on their draft budgets early so it helps them adjust as well. There are some policy issues to address. Last year we requested funding to replace the roof, and we weren't successful in finding a company. When that roof was re-done by the prior owners, the job that was done was very poor. The cost would be about \$70,000, hopefully less but it would be a major hit. We've been successful in maintaining our occupancy and are in the process of renewing some leases. The offsetting revenue from the rents continue to come in and has been helpful.

Commissioner Froelich asked if a share of cost for the CALAFCO conference is included in the budget.

Commissioner Kelley stated it's included in the out of county travel and asked if the legal counsel increase is included. He asked if the employees have an increase in salary.

Mr. Heuberger replied that we didn't adjust for the budget increase that CALAFCO is proposing because that wouldn't go into effect until the following year, but the legal counsel increase is included. He stated that there is the typical annual merit increase included for employees.

Commissioner Froelich asked if the merit increases are at five percent.

Mr. Heuberger replied yes.

Commissioner Snively stated he noticed the contingency is \$150,000, and he would like an update as to our servers and if they are safe.

Mr. Heuberger stated our servers are as secure as we can afford. We recently increased our security measures and are looking into some upgrades. About two years ago, based on the recommendation of both the County and IVTA, we changed our system. Our servers are in-house, and we have a backup system that backups every night. We also have a second back up system that we manually back up. If we get hacked today and no one notices, theoretically it could affect the backup for that night but not

what's transferred on an ongoing basis. There are other things we can do but as Commissioner Kelley pointed out it's extremely expensive. At IVTA's last meeting, the board allocated \$100,000 to hire a consulting firm to assist IVTA and its member agencies to review their security systems. The services to the member agencies come through IVTA. The IVTA stated they get attempted hits on a daily basis. Most of them but unfortunately not the one for the county, get caught. There is always someone out there that will figure out a way to bypass. It's an ongoing effort, we are doing the best we can do.

Commissioner Kelley stated there is zero for capital outlay, shouldn't the \$80,000 for the roof be included in that line item.

LAFCO Accountant Ms. Julie Carter replied it's listed under the building expenses under repairs and maintenance. Capital outlay is usually used for equipment related purchases.

Motion by Commissioner Jackson adopting the Final LAFCO Budget for FY 2019-2020, Option #1 of the Executive Officers report.

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

Ray Castillo, Chair

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

Jurg Heuberger, Executive Officer