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Michael W. Kelley, Chair

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PUBLIC

David H. West, Vice-Chair



ALTERNATES

CITY

Robert Amparano

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Jesus E. Escobar

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Vacant

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EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL
Steve Walker

ADOPTED MINUTES OF THE LAFCO HEARING

December 16, 2021

8:30 a.m.

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

VOTING COMMISSIONERS PRESENT:

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

ALTERNATE COMMISSIONERS PRESENT:

None

ABSENT:

None

STAFF PRESENT:

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

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

1. Roll Call

Commissioner Moreno absent during roll call.

2. Pledge of Allegiance

3. Approval of Consent Items:

- 3A. Minutes from September 23, 2021
- 3B. Project Report update

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

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

4. Public Comments

No public comments were received.

ANNOUNCEMENTS

5A. Announcements by the Commissioners

Chair Kelley- I will be part of a panel conducting interviews for the CALAFCO Executive Director position. There are five applicants, and the committee will select three candidates to recommend to the full board that will then make a decision in January. The current Executive Director Pamela Miller has agreed to stay on until a replacement is selected.

5B. Announcements by the Executive Officer

Executive Officer Jurg Heuberger- Commissioner West has requested to be excused from the CALAFCO Board of Directors and has submitted his resignation. The southern region had its quarterly meeting yesterday by zoom and this was one of the topics discussed and Derek McGregor has agreed to step in. The staff workshop is scheduled to take place in Orange County. This workshop is co-hosted by Imperial and Orange LAFCO's Last year's staff workshop and conference were cancelled.

DISCUSSION/ACTION/DIRECTION

6. Discussion/Action/Direction regarding the Alternate Public Member vacancy.

Commissioner West recused himself from this item.

Sr. Analyst Paula Graf- We have Jose Landeros on the phone and Lauren Layton in attendance.

Alternate Public Member Applicant Jose Landeros- Thank you for the opportunity to chat with you. I've always been interested in helping the community in whichever way I can. I've always been community minded and feel this is the next challenge and opportunity for me. I would greatly appreciate if you consider me as the potential alternate.

Mr. Heuberger- You are aware of the times that LAFCO meets which are the fourth Thursday of the month typically. Would that be an issue?

Mr. Landeros- Ms. Graf and I chatted briefly about the meeting times and there would not be a conflict.

Alternate Public Member Applicant Lauren Layton- I'm glad that you are considering me. I've been involved and am trying to get involved in any way that I can. I am also part of the agriculture community as well. One of the reasons I want to be on this board is I want to bring a younger perspective because eventually you will need your young people to be on boards and I want to start now. Second, I am a woman and I feel like we need to see more women on these boards and third I'm looking at what you do, in my opinion you are the mediator between the cities, the county and our ag community and I want to be able to have that perspective on the board. Thank you for hearing me.

Mr. Heuberger- I have the same questions for Ms. Layton, You are aware of the times that LAFCO meets which are the fourth Thursday of the month typically. Would that be an issue?

Ms. Layton- I do not have a conflict with the meeting dates.

Chair Kelley- Both candidates are willing and interested so it's a tough decision

Motion by Commissioner Froelich and appointing Jose Landeros as Alternate Public Member.

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

7. Discussion/Action/Direction regarding Assembly Bill 1021.

Mr. Heuberger- This item is related to a special study on Imperial Irrigation District governance. The original proposed bill by Assemblymember Chad Mayes included seats on the board for the Coachella Valley. That bill did not move forward. AB 1021 did pass but was vetoed by the governor because he did not agree with the timeline, but he did agree with the need for a study. The state allocated \$500,000 for the study to be completed. Imperial and Riverside LAFCO's have been jointly tasked to complete the study. We have met with IID staff and board members along with Riverside LAFCO staff. I think IID has come to terms that the study needs to be done and since there is funding for it might as well get it done. One of the aggravating parts is how we obtain the funds. We met with the state, and they cannot release any funds until a contract with a consultant is signed. It does not make sense for two LAFCOs to try and manage a contract with the consultant. We delegated Riverside LAFCO to manage a contract with the consultant. The state will release the funds to the County of Riverside who in return will release the funds to Riverside LAFCO. Riverside county said they do not want to be responsible for reporting to the state. It has become a bureaucratic nightmare on how to allocate the funds. We expect to meet again before the end of the year to hopefully get at least half of the funds up front.

Chair Kelley- Does this revolve around the IID providing electric to the Coachella Valley. Is it sufficient for the consultant's fee and is the consultant independent?

Mr. Heuberger- The recent estimate is around \$300,000 and a consultant has been selected. The consultant works for both LAFCOs and can only be given direction if it is signed off by both executive officers.

IID Director Hamby- I wanted to provide an update regarding the whole process with the study and as Mr. Heuberger pointed out we do have our Coachella Valley Energy Commission and we are working out on these issues and wanting to work with the LAFCO's.

Chair Kelley- We received an update from Mr. Heuberger so thank you.

Chair Kelley- I think IID Director Hamby wanted to insert something during the discussion calendar, and I did not allow him as I thought he was going to repeat what Mr. Heuberger was updating us on but in fact he missed public comment as he wanted to invite LAFCO on a bus tour of the electrical service area in Coachella next month. I am sure he will send us an invitation. I apologize to Director Hamby as I had no idea where he was coming from and wanted to move on with the agenda.

No action taken on this item.

8. Discussion/Action/Direction regarding an update on Special District representation.

Mr. Heuberger- Your Commission about a decade ago directed me to pursue having the special districts consider a seat on the LAFCO. Many of the LAFCOs throughout the state have special districts and some that do not, Imperial being one. The process over the years have gone several steps each time. The most recent was triggered by Laura Fischer, General Manager of the Heber Public Utility District. We have had numerous meetings with the districts including IID Director Hamby, IID Director Hanks, and staff. In 2000 when CKH was amended, it required special districts to contribute in order to have a seat on LAFCO. At this time, the county pays 50% and the cities pay 50% collectively. The special districts with the exception of the IID are relatively small and have limited budgets. The problem we found is that the special districts want a seat but can't afford it. There is a statute that states that no district shall pay more than 50% of the total cost. LAFCO is more of the facilitator as it is not our decision. Ultimately a decision to negotiate an agreement with the IID and special districts was on the table. The proposal was that the IID would pay 92.5% of the special districts 1/3 share in return for one permanent seat on the commission and the remaining special districts would pay the balance based on their revenue. IID Director Hamby brought this item to the IID Board at their last meeting and essentially the board did not agree. That means the special districts will not be seated because they do not feel they can afford it. The issue as of now appears to be on hold.

Chair Kelley- I thought with IID having a designated seat that it would have moved forward.

No action taken on this item.

9. Discussion/Action/Direction regarding an update on the Salton Community Service District.

Mr. Heuberger- A little over a year ago the SCSD volunteer fire department ceased operations because a special assessment failed to pass by the voters. The fire department quit, and the county stepped in and has been providing service ever since. LAFCO had an obligation to review the district and to remove the authority from the district to provide fire protection. We determined there were other issues that came to our attention including financial concerns and sewer issues. We asked the district to submit a Service Area Plan, they agreed and hired Rick Engineering. We made it clear that we wanted to cooperate. When we received the first draft report it was clear that it was inadequate. Their sewer was either at or over capacity and the plan showed the systems being overused. We looked at the financials and the issues that concerned us included what the district was spending the money on and how they were paying for expenses. I want to thank Ms. Graf for doing most if not all the review on this. One concern is the district was using sewer funds to pay for general fund operating expenses which is not allowed unless it is justified.

Another concern is the district has the authority to operate a park system, but it is not clear how it is being paid for or if it was subsidized by enterprise funds which is not allowed. We asked for the plan to be amended and got to the point where it became evident the district was reluctant to provide information or was providing information that did not answer our questions. I took it seriously and wrote the district a letter stating we have the authority to dissolve if that is what the district wants but we would rather work with them, so the county does not have to take on another district. We received a response letter from the district asking how many letters we have sent to other districts threatening to dissolve them. I took that like seriously, instead of working with us trying to figure out the problem you want me to provide letters sent to other districts. I called the district and I said that I can give you the four letters sent to similar districts and all those districts have been dissolved. They hired an attorney Katherine Turner who you all know. Ms. Turner and I have been working together trying to get the district on track. I received a phone call yesterday from Ms. Turner advising that she effectively that morning resigned because of the new board members actions and apparently that was a hostile and unproductive meeting and she felt she did not want to be associated with the district and potentially lose her license. That afternoon we met with the four-remaining staff. They presented similar information we received from Ms. Turner that the new board did not follow procedures or did not want to do anything. I am simply relaying what I was told as I cannot say it actually happened. Bottom line is they scheduled another meeting for Tuesday and the staff stated the meeting is to fire all the staff. That is their opinion. We have a serious problem with the districts service capacity. I am surprised the Regional Water Quality Control Board has not issued any violation notices. According to the records we were given the districts sewer system is over capacity. I talked to Brian Mooney from Rick Engineering, and he advised the technical data in the report is somewhat dated but reasonably close. Staff yesterday did say they have a problem with their sewer system. They did hire the Holt Group to do the engineering assessments. Another concern is many years ago the district had a rather substantial amount of reserves which was about 6 million but I was told yesterday it was 8 million. When I asked yesterday why that money was not included in their accounting the answer is that money is gone. Staffs comment was back in 2008 they used the money to construct ponds. The problem I see now is if they have to expand their system, they have no revenues to accomplish that. It is similar to Niland where they had a problem with their sewer system and could not pay. What I would like to do, and I did not intend to dissolve, that is the last resort to look at. We would rather work with them to get them on track. We might want to consider alternatives to the parks, because they have no real revenue source, and it is costing them I believe around 100,000. We sent the district a letter to get this resolved stating this is the information we need. It depends on how the board members act. I sent an email to all board members last night with an invitation to today's meeting and letting them know there are serious concerns, and we need to take action sooner then later. I did not receive a response as of this morning.

SCSD Consultant Chrissy Gallegos- I met with Mr. Heuberger and staff members. I have done my best to be involved with Ms. Graf back when it all began. She has provided us with a list of information they need and we are gathering that now. We are gathering information regarding grants for the force main project, as well as the engineering and rate study. As far as the finances are, I agreed to meet with Ms. Carter to go over in detail our financial structure and show where everything is. We carried the finances forward when I came on. I will work with Ms. Carter to try and get it taken care of. That is our intent. There are concerns with the new board members and agenzized items. Should by chance I am no longer doing business with the district, I will do it voluntarily so Ms. Carter can understand what our finances look like. We want to do what we need to do to move forward.

Desert Shores resident Art Gertz- I am a longtime resident of Desert Shores and Vice-Mayor. I am deeply concerned about our overworked sewer system and other problems we have. I look forward to working with Ms. Gallegos. Let us work together to solve this sewer problem. I ask that since there is a consideration today to annex land that you consider annexing 44-acres that begin 150 feet north of the county line. The hardwater wells are situated on the land and they were entitled to Riverside in the 1950's.

SCSD Board Member Nancy Pieper- I am a current board member not a new one. I am listening, concerned, and willing to see what we can do so that everything goes smoothly.

Vice-Chair West- What is the next move?

Mr. Heuberger- We had Brian Mooney on the phone when we met with district staff. He is aware of the additional information that is necessary and required and is willing to incorporate into the report however, that information needs to come from the district. We asked the district for the contracts with The Holt Group and NV5 for the technical engineering. We want to see the contracts to make sure the work the firms are doing meet the requirements. If that is the case, then we would incorporate their recommendations into the Service Area Plan similar to mitigation in a CEQA document. Assuming the costs are significant, the question is where the money will come from. A potential opportunity would be to obtain a grant from USDA, EPA, or even the Water Board. We all know grants are not guaranteed and sometimes have matching requirements that come conditioned upon a rate increase to offset the long-term operational costs. That would trigger a Proposition 218 which is not guaranteed if the voters do not approve. There is a roadmap that can be followed where this can be solved if everyone does what they are supposed to do. It will not be an easy fix or easy solution. It will take the cooperation of the districts board to get this moving. My request is we will proceed to work with the district to get it locked in writing as to what the plan of action is and get some commitments. If that works out, then we will provide an updated SAP to you. If it goes the other way, then we have to look at a worse-case scenario which is dissolution.

Coachella Valley resident Jim Parks- I am a palm tree farmer in the Coachella Valley. I seem to be the voice for the new board. They have a little bit of a language barrier. I wanted you to know that yesterday the board made a decision to move forward in a positive direction to represent the people and the community. They will be bringing in an attorney that can help them in a transparent way to set up a professional accounting system where there is an independent audit so there are no questions or rumors about finances. Furthermore, things can be put into balance to build a community that serves the people, but it seems like it's the other way around. The board because they are Hispanic and not highly educated in the things of politics, commission, or council meetings need a little guidance and I think the new attorney is the right guy. They will need to have some patience but certainly the optics of dissolving the district and now that there are new board members and new direction, I believe there is desire to be transparent above board and publicly known. We want to work with LAFCO and sit down to see what they need to do to help the district govern how the need to be. I have a vested interest in Desert Shores. We have a small nursery so people can have palm trees and landscaping for the first time ever. I have farms in Tenesia, and they do not have trees similar to here and it bothers me. I also represent the church on the council in Borrego Springs and we now have a chapel in Salton City with a small Spanish group. We are trying to get the community together to do service projects to landscape the parks and the fire station and city hall. I urge you to be patient and work with them and understand their challenges. They are willing to do what's needed to work in a positive direction.

Commissioner Froelich- Can we initiate and give Mr. Heuberger full support to work with the district. I also recommend we put them on an oversight of LAFCO and hopefully the board members can work in cooperation because we are here for a reason, and we need to back Mr. Heuberger as he is the professional. Maybe it will lead into a dissolution similar to Niland if that is what is best for the community.

Salton City resident Oscar Ramirez- I am a resident of Salton City, President to the Lions Club and a concerned citizen. I was one of the candidates for the November election. I am also part of the Architectural Committee and work with the local catholic church in Desert Shores. I was previously a fire captain in Salton City. Any way that I can help the community I am willing. The community needs transparency and I am here to help out.

Vice-Chair West- I assume you will get a dialogue going with them.

Mr. Heuberger- My goal at this time with your approval is to send a follow-up notice to the district. There are some new board members, and the prior ones should be aware of past communications. I suspect the new board members are not that is why I reached out to them last night about today's meeting. I do not want it to be perceived as if our minds are made up. Our next letter will make it clear about what information we need. If they are cooperative, then it could support a positive outlook with the communication. If we do not get the information or if we have to step in more drastically then I would come back to your commission.

Vice-Chair West- You went to Winterhaven at one point to give a presentation. Is that the same position with this district?

Mr. Heuberger- That is one of the things I am looking at doing is attending their next board meeting. I will be requesting a meeting with them, and it might be best to have a member of the commission and even Supervisor Ryan Kelley since he represents this area. We made it clear that we are here to help. Our position as LAFCO is to ensure the districts are as functional as they can be and if they are not then we have an obligation to dissolve if that is the only option. It is not a threat but a state mandate that says LAFCO do your job.

Commissioner Castillo- One of the speakers earlier mentioned a language problem. We have a history that is similar in Niland. They had issues with their wastewater. The problem was the state was going to move in and shut them down. I would like to volunteer to meet with the folks and if you need a Spanish translator.

Commissioner Froelich- I want to put it on the table for Mr. Heuberger to provide feedback and collect data back to 2008 when the bulk of the reserves was spent. Look at their audit reports and come back to us to see if the district is solvent or insolvent. My big concern is there are big issues happening behind the scenes.

Mr. Heuberger- We have asked for their audits which were completed by Mr. Woo, and we will reach out to him as well. District staff mentioned they are not able to locate documents going back say beyond 2012. We have requested the full audit. I will have our Accountant Julie Carter working with them to see what their financials look like. Sometimes when e-mails and letters are sent back and forth it is not the same as meeting in person. There are areas we might better understand how they were done but we first need to understand their situation before we decide.

No action taken on this item.

10. Discussion/Action/Direction regarding a proposed Memorandum of Understanding with Riverside LAFCO for the exchange of principal county status for a proposed annexation of the Salton City Landfill to the Coachella Valley Water District.

Mr. Heuberger- The Salton City Landfill is owned by the County of Imperial and operated by Burrtec. The County has applied to receive water from the Coachella Valley Water District. The Coachella Valley Water District provides water to the area near the Salton Sea and has agreed to provide water to the landfill. The landfill is in Imperial County but since the districts headquarters and operations are within Riverside County Imperial LAFCO must give Riverside LAFCO permission to process the annexation. The second issue is that state law requires a tax sharing agreement regardless if there are no taxes. This agreement would be between the district and the county. We need to move forward with the MOU so Riverside can proceed.

Commissioner Kelley- How much land is involved and are there any tax implications?

Mr. Heuberger- There are no taxes paid by the county, however a tax agreement is still required. If the county were to sell the land to a private entity, then the parcel would be subject to taxes.

Commissioner Castillo- What is the lifespan of the landfill?

County of Imperial Director of Public Works John Gay- I think there is a 100-year lease.

Motion by Commissioner Castillo and approving a Memorandum of Understanding with Riverside LAFCO for the exchange of principle county status for a proposed annexation of the Salton City Landfill to the Coachella Valley Water District.

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

11. Executive Item- Added to the Agenda G.C. §54957

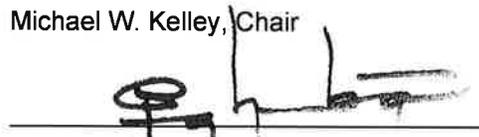
Legal Counsel Steve Walker- I was advised by the Executive Officer that there is a need for a closed session personnel matter in accordance with Government Code §54957. In order to add it to the agenda it requires a 4/5ths vote.

Motion by Commissioner Castillo and adding a closed session item to the agenda.

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

Legal Counsel Steve Walker- Item was discussed, direction was given but no action taken.

Michael W. Kelley, Chair


Jurg Heuberger, Executive Officer