
COMMISSIONERS

CITY

Maria Nava-Froelich

CITY

Javier Moreno

COUNTY

Michael W. Kelley, Chair

COUNTY

Ray Castillo

PUBLIC

David H. West, Vice-Chair



ALTERNATES

CITY

Robert Amparano

COUNTY

Jesus E. Escobar

PUBLIC

Vacant

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EXECUTIVE OFFICER
Jurg Heuberger, AICP, CEP

LEGAL COUNSEL
Steven M. Walker

ACTION MINUTES OF THE REGULAR LAFCO HEARING
September 23, 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
Ray Castillo

ALTERNATE COMMISSIONERS PRESENT: None

ABSENT: Javier Moreno

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
2. Pledge of Allegiance
3. Approval of Consent Items:

3A. Minutes from May 27, 2021

3B. Project Report update

Mr. Heuberger- The application for the formation of the Rancho Los Lagos Community Service District was withdrawn by the applicant. The applicant plans to pursue annexing to the City of Brawley.

Motion by Commissioner West approving items 3A and 3B as presented.

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

4. Public Comments

No public comments were made.

ANNOUNCEMENTS

5A. Announcements by the Commissioners

Commissioner Kelley- As you know I am the Chairman of the CALAFCO Board. This year's annual conference was canceled. CALAFCO Executive Director Pamela Miller will be retiring. Ms. Miller has been with CALAFCO for the past eight years and I would like to ask this commission to direct the Executive Officer to order an appreciation plaque and resolution for her. I am doing this independent of CALAFCO but will notify the board members. The Board conducted zoom interviews and the second interviews will take place in person on November 12th.

Mr. Heuberger- We will work with Jenni Tickler from CALAFCO to get some information. The plaque will be from CALAFCO, and the expenses will be incurred by Imperial LAFCO.

Commissioner Froelich- I have been attending lithium workshops that Mr. Kelley and others have been participating in. There is a lot of work going on behind the scenes. There will be an ICTC meeting on September 29th. Jurg Heuberger and Paula Graf gave a presentation on LAFCO at the previous League of Cities meeting. I have been following the IID work and AB 1021. I've been focused on keeping abreast of everything.

5B. Announcements by the Executive Officer

Mr. Heuberger- This year's conference was canceled and it is planned to be rolled over to the next year. This caused us to also postpone a conference we have scheduled in Yosemite. Ms. Miller made these efforts to try and save what we could.

DISCUSSION/ACTION/DIRECTION

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

Mr. Heuberger- There is a vacancy for the Alternate Public Member, which is the alternate to Commissioner West. We received two names of people that might be interested. I spoke with one of them and am scheduled to speak with the second. I will ask for a short summary of interest and experience. We will bring it back to your commission for selection. If the commission has anyone that might be interested, please provide the names.

No action taken on this item.

7. Discussion/Action/Direction regarding Assembly Bill 1021

Mr. Heuberger- We took a position in opposition of AB 1021 early on. There were concerns from several EO's because CALAFCO took a position on this bill. CALAFCO normally would not take a position on legislation unless there is uniform agreement. The reason CALAFCO opposed this bill is because it was being proposed as an unfunded mandate. CALAFCO is not supportive of legislation that has provisions that impact LAFCOs financially. CALAFCO was protecting the financial aspect of the bill and nothing else. Riverside LAFCO's EO Gary Thomspson, Pamela Miller, and myself have had several conversations with Assemblymen Mayes office throughout the process. Imperial LAFCO made it clear that our position was that the bill is unnecessary and doesn't make sense. Riverside LAFCO took the opposite position. The bill is now on the governor's desk to be signed. We've met with IID's staff and several board members and discussed how to proceed. IID had a concern because of a joint RFP between Imperial and Riverside LAFCO's that was issued prior to the bill being signed. The bill had a deadline of June 2022 and that is a short timeframe to complete a study. We took the position that it wouldn't hurt to issue an RFP to see who is interested and get the local process of hiring someone a step ahead to allow time for the actual study. It can take several months to hire someone and then we would only have five to six months to get the study done. One of my positions along with the Riverside EO was to have the maximum involvement of stakeholders. All indications are that the bill will get signed. One of the issues in the beginning was the bill was not necessary, but we were absolutely opposed to it because of the financial impact on the LAFCO's. Ultimately at some point the bill included funding that would go to Riverside County. It would not make sense for two LAFCOs to issue checks to one consultant. Both LAFCO's will review and approve the consultant invoices with Riverside cutting the checks. Our agreement is that

there will be no meetings with the consultant unless both Imperial and Riverside LAFCOs are involved. All future meetings need to involve the parties. That way no one can say there are any backdoor deals. I want to make it as neutral and unbiased as we can. The idea is to have as many stakeholders as we can. It allows people to get involved from day one to voice their opinions.

Commissioner Kelley- I can't believe how far this bill has gone. Are there any campaign letters being sent to the governor. What if the study isn't done by the due date.

Mr. Heuberger- We have sent letters in the past but not to the governor. I talked to Mr. Hamby and Mr. Ortega, and Mr. Oswald and at this point I am not sure we should send a letter from the standpoint of perception. I would not ask that we send any letters at this time. We were told by Assemblyman Mayes office that the study will be completed by the deadline.

Commissioner Froelich- Has there been any commissioner involvement and how much has this cost us to date.

Mr. Heuberger- It has not cost us time other than responding to legislation and having meetings with individuals, so it is part of my job regardless. I would say that myself and Ms. Graf have spent time on this but not to portray that it is costing us extra money. We have not held meetings that are open to the public but we have met with those that have requested. Mr. Hamby, Mr. Ortega, and Mr. Oswald and I spoke about how to approach the study and talked about issues that might come up. Future meetings will be open to the public. If Mr. Hamby calls and wants to meet and if someone wants to join, then it will be open. Once we get started our goal is to follow a format similar to the CEQA process where we have a preconference meeting and discuss the process and what the scope of the study will be. Once the consultant is on board then the first meeting would be a scoping meeting to invite anyone interested and that includes commissioners. From there we will schedule future meetings that will take place in Imperial County and Coachella. We will try to make it as accessible as we can.

Commissioner Froelich- Transparency is important.

IID Director and Vice President Mr. Hamby- Thank you for your time and attention to this issue as some of us have had extensive discussions on this that began sometime in March. Assembly Bill 1021 is not the first bill on this subject. The first one was in 2003, then 2008, then three bills by Assemblyman Mayes. AB 854 proposed six new board members from the Coachella Valley. That is problematic and those bills were not successful. Last year another bill did not make it due to

COVID and the limit on proposed bills. The latest bill is AB 1021. The original bill was introduced proposing to add 3 ex-officio board members that would participate with the same rights, responsibilities, and privileges as an IID director without the right to vote. It would have allowed them to participate in closed sessions and on water and power issues. The bill had a much less defined LAFCO study at that point. We ultimately had the ex-officio down to one and then removed. The LAFCO study was better defined but there were issues with the language put together and even more so some of the previous iterations of the bills have influence on how the thinking on this issue, but it has evolved dramatically over time but it's not ideal. I met with the Riverside LAFCO EO, and we went over some of the issues I saw with the RFP. The RFP says the study is to determine how to receive proportional representation on the IID board but that is not what the bill says. The bill states proportionate representation on a board but does not define it as the IID board. This would be problematic because it would take us back to AB 854. We have gone through the process and LAFCO is just one part of AB 1021 basket of issues. We pledged throughout the process that we want to take a local focus and have a local solution to what we see as a local problem rather than something that is mandated by the state legislature that is not going to be able to comprehend the complex issues at hand or the needs and desires of locals in the Imperial and Coachella valleys. We've established the Coachella Valley Energy Commission to sort through these issues.

Commissioner Kelley- Did the formation of the commission not meet the desires from the Coachella Valley stakeholders.

Mr. Hamby- I think there are a couple of things. There has been appreciation for the creation of the commission. Prior to AB 854 there were some pledges about solving these issues at the local level but those efforts may have fizzled out over time and so I think that was the first proposal by Assemblymen Garcia. When we established the commission, it was helping in leading the bill from having an original 3 ex-officio down to zero. After talking with the Riverside EO, he thought the commission would really negate the need for a study. We have a local process that I think will be much more in tune. The study more or less should not be binding or exclusive. We are trying to take into account what the locals want and the findings from the study. The first paragraph of the RFP had a misinterpretation. We have a robust stakeholder process.

Commissioner Kelley- Thank you for the information. Establishing a commission was the way to go. It allows the people to be heard and brought back for consideration and discussion. Hopefully the consultant will come up with a recommendation.

Commissioner Froelich- Is the committee permanent or short-term until the study is completed.

Mr. Hamby- It is a good question. The commission is not permanent by any means and that was clear from the beginning. It is more of an Ad Hoc Committee. The purpose was to get local participation with IID, the cities, and the tribes in Coachella Valley and the unincorporated portions of Riverside and Imperial. It is meant to develop an immediate seat at the table for input on things that are important to them but most important to form a strategic plan after the determination of the 99-year agreement. Things have evolved since the 1934 compromise agreement. Sixty percent of the energy customers are in the Coachella Valley. We have local stakeholders at the table we are looking to for a local solution. If we need to seek state legislation to bless what we have come up with then I think we are good with that. We are trying to demonstrate we do not need legislation to enforce a solution. Let's come up with something that will work in everyone's interest.

Mr. Heuberger- The study would come to Imperial and Riverside LAFCOs for adoption or other. I expect as we go through the process, we will be updating the commissions which of course affords another opportunity for stakeholder involvement.

No action taken on this item.

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

No action taken on this item.

Mr. Heuberger- Your commission over the past fifteen years has encouraged special districts to be a part of LAFCO. Until recently we had about three attempts to make it happen over the last decade all of which failed. We've had several meetings with the special districts, not all, but many and the IID. In a nutshell there is an interest to have a seat but there are financial constraints for some of the districts. We've met with Mr. Hamby, Mr. Ortega, and Mr. Hanks and they have been involved in all if not most of the meetings. The special districts have said they cannot afford to pay what would be the proportionate amounts by statute. They have requested that IID pay 95% of the 1/3 share. That is a significant amount. By statute no special district can pay more than 50% of the 1/3 share. There were many discussions back and forth and IID took this to their board at least three times. Mr. Hamby took it back to the IID board and made a compromise offer of 92.5%. HPUD and SCWD have both passed resolutions in favor. HPUD was the most vocal because they had a limit of what they could pay. The IID has agreed to pay 92.5% with the tradeoff being the IID would get a permanent seat on the commission. Early on the special districts agreed to this and it is not uncommon for other LAFCOs to have designated seats. The next step is to have a vote, which would take 50% +1 vote to join the LAFCO. Keep in mind LAFCO does not have a say in this, we do not vote or mandate, but we are charged with going through the election process. Given the IID's offer I think the vote would pass.

Commissioner Kelley- Can the special districts resign at any time.

Mr. Heuberger- There is a 50% +1 clause, and this is a negotiated deal to make it happen. The question is how we enforce this. Mr. Oswald drafted up an MOU to have it in writing and to have an enforceable document. The MOU has been refined acknowledging Mr. Hamby's concerns. There was language that gave IID veto power, and I objected, and we came up with a better solution. We agreed that if the special districts join let's say in January, then the special districts would need to pay the pro-rata share of those six months.

Commissioner Kelley- Does the special districts joining increase the revenue of the LAFCO budget and does it decrease the contributions from the cities and the county.

Mr. Heuberger- It would not increase the revenue. It would reduce the contribution amounts from the county and the cities collectively. We plan to meet with the special districts to discuss and review the MOU. There are a couple of ways to do the election and I recommend each of the special districts pass a resolution agreeing to the terms.

Commissioner Froelich- Can you send a list of the special districts.

Mr. Heuberger- Ms. Graf will send that to you.

Mr. Heuberger- Once they decide to join then the IID would meet and vote to appoint a designated member to the commission. The special districts would then vote to appoint the second seat. Once those appointments are made and the vote has been cast then we would come to your commission and say the special districts now have a seat. We would then invoice them for the pro-rata share.

Commissioner Castillo- We have been talking about this for years so it's a good thing.

No action taken on this item.

9. Discussion/Action/Direction regarding an update on the Heffernan Memorial Healthcare District

Mr. Heuberger- This is an update on the district and a staff report is included in the packets. This topic has a long history and as directed by your commission in April 2020, the district had to provide annual updates for the next two years then every five years if the report was positive. The commission directed the district not subsidize the City of Calexico, provide their audited financials each year and provide their budget within 30 days of adoption. We have been working with the director of the district before they adopted their budget and made some points on what we might have issues with. The bottom line is we have been working the district for the past several years and have built a good rapport. There are issues and concerns from the public that come up

periodically. Things have improved and there is still room for more improvement. We have had a positive dialogue and we anticipate that to continue. Currently, we are recommending we continue with the way we have with the next date in April and at that point decide whether to continue on a one-year basis. The commission has the authority to revise the recommendation if a concern comes up. The district has been doing what asked are on a positive track. We will still want to see their audited financials and adopted budgets which is not an abnormal request. We do get calls about the district not subsidizing the city, the city has budget constraints. If it doesn't fall into the category, then you might not be able to do it.

HMHD Executive Director Mr. Tomas Virgen- It has been a challenge and a positive experience for our board thanks to the leadership of LAFCO. I think we are in a different place then we were five years ago. The plans are evolving, and we are working on an RFP for an urgent care. Procopio out of San Diego is helping us. There will always be naysayers, but I want to think Mr. Heuberger for his leadership and we look forwarding to becoming where we need to be.

Commissioner West- Do you feel from an educational standpoint that the board understands there are guidelines where the districts money can be spent on. I am concerned that the City of Calexico keeps asking for money. A healthcare districts is to provide healthcare for the citizens. Does the city not understand that.

Mr. Virgen- They keep asking and maybe we can recommend some education to the city. We had a conversation with the city recently about the same topic. My board understands. There was a belief from the public that the funding is about who is liked and who is not. It is not about a popularity contest it is about what is best for the city. We have to keep talking about this topic.

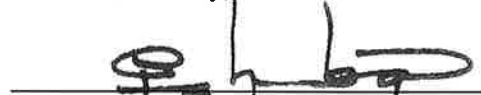
Calexico Resident Ms. Maritza Hurtado- I am a Calexico resident and former Mayor for the city. This morning I came to because we have a five-year plan today that is very different from the last time I was here. The last time I was here was about four months ago. At that time, I gave the Commission several documents related to the concerns I have with regard to the activity and non-activity of the district. I am looking at something completely different as I have had the opportunity to read the content. The plan reflects the reality that the district eliminated all non-profit programs in the community. We had an adult weight loss program, an asthma program, programs that are community based. The last plan included the programs that are now canceled. Those programs were discussed in detail. The LAFCO has consistently told the district they cannot fund the city. We are speaking in terms of our firefighters. The last plan was conflicting, but it did embrace previous agreements. The plan being presented today does not mention any non-profit programs. That tells me the district has no intention to adhere to what was discussed as priority one in the last plan. Priority one was the community programs. Now it looks like those programs will not

come back unless Dr. Voh's program is the only priority. We have two major programs that are discussed in the report. A couple of things make me nervous. The first time I learned about Dr. Vo's relationship with the district and the amount of money and concerns about the setup and presentation of how these programs were planned to be set-up. I see in the plan a photo and marketing with Dr. Vo. We know that Dr. Vo is good at marketing and that is great. We saw a lot of marketing from Dr. Vo during COVID. All Calexico has is Dr. Vo, Clinicas de Salud, and Calexico Wellness. At this point because of what happened last week I know that two gentlemen are here and maybe someone online knows that everyone is concerned. I asked for a meeting with the County CEO, and I spoke with him about the concerns. The same concerns I brought here and the documents I provided told you I was trying to find out why Calexico was seeing so much marketing regarding the district's strategic alliance with Dr. Vo and the finances not matching. We are in a crisis in Calexico and our county in general. Calexico has had it the worst because we do not have a hospital. My question to the County CEO was what happens from here on and who do we trust. In this case and the reason, I wanted to talk to him was to ask why the county approved a \$780,000 grant to Dr. Vo's non-profit. That same organization received almost \$500,000 from the citizens of Calexico. The way Dr. Vo presented the project was he said he would target the uninsured. His advertising shows photos of him in front of the senior complex and we all know there are no non-insured people there. So, the behavior of actual life and the facts that are occurring in the district is what you are seeing. I want you to look at the presentation considering the \$780,000 that the county pulled. The budget from Dr. Vo indicates otherwise. I am a life-long tax person and have experience in the insurance world. Dr. Vo's budget says the medical insurance needed for the project will be zero. There is a street team that will be going downtown and as you know we have had three recent shootings. Downtown exposure is my concern. We do not know if Dr. Vo's medical private practice is insuring us and if that is causing a problem with the citizens and the encounters. Is this truly the focus and the mission of why the investors, the citizens of Calexico pay taxes for almost twenty-years now. It is very different without a hospital. It is important for this commission to clarify to the citizens where we are at with who our safety net is because we do not feel we have one. The safety net we wish to have is this commission to get involved because in a certain way you are the gatekeeper. County individuals stayed back and waited. I came to tell you that one raid is one raid too many. The county still went forward with funding. We do not have answers as to why we do not have the financial information for Dr. Vo. I've asked for financial information from the first donation from the district but have not received answers. I've reached out to Alex Cardenas, and he has denied they received donations from the district. I do not know why at this point other than to ask what has been asked. It is taking away from our community, and we cannot deny the fact that there was a visit by federal agents to this organization. Calexico only has two programs with the district, Rosa's Plane Food and Dr. Vo. I do not see where she will have a nutritionist and page 5 states

there is a list of five individuals that can be called as a reference for the meals. The district severed ties with the meals on wheels program. The citizens of Calexico have hypertension and other health issues. Why was a program that had parameters and oversight canceled? I love the restaurant but it's a private restaurant and not a non-profit. I do not recommend you approve anything at this point. The County CEO stated he would speak with Mr. Heuberger, and I hope he did. We have a community of poor people that relied on this service. We cannot ignore we have a problem and we do not have the resources we can trust. Please involve yourself in the oversight now. I'm sorry for being emotional but my cousin is in the hospital intubated and he is fighting for his life. I went to the HMHD meeting last night and asked them why they are going to have a party when the community does not have hope and they have mistrust. All the district has given us at this time is Dr. Vo and that is all.

No action taken on this item.

Michael W. Kelley, Chair

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

Jurg Heuberger, Executive Officer