



LAFCO 101 – PUBLIC WORKSHOP ON LOCAL AGENCY FORMATION COMMISSIONS, AUTHORITY AND POWERS

Item #6

October 23, 2013



What is LAFCO?



"We are not on anyone's radar until they need us or don't like what we're doing."

– Kathleen Rollings-McDonald

Executive Officer, San Bernardino
LAFCO

Fontana News Herald, September 27, 2013



Objectives



- Educate the new members of the Commission and public on LAFCO
 - To provide a general understanding of State Law and LAFCO policies
 - Understand current role of LAFCO in the county
- Answer questions relating to the operations of LAFCO
- Hold a discussion on the future



LAFCO Background



- Created in 1963 by the State Legislature to regulate the boundaries of local public agencies, with notable exceptions
- Charged with implementing State mandates while taking local conditions into account
- Mission:
 - Preservation of open space and agricultural resources
 - Discourage sprawl
 - Ensure the efficient extension and provision of public services
 - Promote orderly growth and development



LAFCO Background



**LAFCO is a hybrid entity: A
State agency with local
representation**



LAFCO Background



- 1963 – Knox-Nisbet Act
- 1965 – District Reorganization Act
- 1971 – Spheres of Influence requirement
- 1972 – Districts allowed to be seated on LAFCO
- 1977 – MORGA (Municipal Organization Act)
- 1985 – Cortese-Knox Local Government Reorganization Act
- 2000 – Cortese-Knox-Hertzberg Local Government Reorganization Act
- PRESENT - CKH Act continues to be refined



LAFCO Background



- Composition:
 - Two representatives from the County Board of Supervisors
 - Two representatives from the city councils
 - Two representatives from the governing boards of the special districts
 - A member representing the public at large
 - An alternate for each of the four categories

[The composition of other LAFCOs may vary, with some not having special district representation or having a “special” (dedicated) seat]



LAFCO Background



Recommendations:

- LAFCOs be neutral, independent, and provide well balanced representation.
- LAFCO's powers should be strengthened to prevent urban sprawl and ensure the orderly extension of governmental services.
- SOI Updates need to be based on hard data
- Policies to protect agricultural and open space lands need to be strengthened.



LAFCO Background



- LAFCO's authority, powers and responsibilities are encapsulated in the Cortese-Knox-Hertzberg Act (Government Code §56000 et seq.)
- LAFCOs must also comply with other statutes such as the Brown Act, Revenue and Taxation Code, CEQA, FPPC regulations, and district-specific principal laws, such as CSA Law, CSD Law, etc



LAFCO Background



- Funding for LAFCO comes from:
 - Funding agencies (1/3 by the County, 1/3 from the cities and 1/3 from the governing agencies)
 - Applicant fees
 - Any interest revenue
 - Any carry over from one fiscal year to the next



LAFCO Powers



- Review, Approve, Disapprove Boundary Changes (GC §56375)
 - Annexations, formations, incorporations, consolidations & dissolutions of local governments and out of agency service agreements
 - Add or activate powers of an agency
 - Make determinations
 - Modify and add conditions
- Conduct Studies
 - Review of proposals
 - Service studies and planning studies
- Set Spheres of Influence



LAFCO Background



- LAFCOs have the discretionary power to approve, deny or conditionally approve changes in boundaries (GC §56375)
- LAFCOs do not have direct land use authority, but their policies and decisions may have indirect land use impacts [GC §56375(3)]
- LAFCOs must comply and address CEQA law



LAFCO Background



- LAFCOs may adopt standards and policies for evaluating proposals, including written definitions, as long as they are not inconsistent with State Law
- The Commission may initiate consolidations, mergers or dissolutions of agencies or the establishment of subsidiary districts. All other changes in boundaries may only be initiated by landowner petition, by registered voter petition or by resolution of application by an agency



LAFCO Background



Jurisdiction Includes:

- Counties, cities, most special districts
- Does NOT include:
 - ~~Redevelopment agencies~~ or JPAs
 - Community facilities or Mello-Roos districts
 - School or college districts
 - County boundary lines
 - Bridge and highway districts
 - Transit or rapid transit districts
 - Improvement districts
 - Zones of benefit
 - Air Pollution/Quality Districts



LAFCO Factors



- All LAFCO decisions regarding changes in boundaries must address the factors outlined in Government Code §56668.
 - Population and population density, proximity to other populated areas; land area and land use; drainage and topography
 - Need for organized community services; present and future costs of those services; probable future needs



LAFCO Factors



- Factors outlined in Government Code §56668 (cont'd).
 - The effect of the proposed action and of alternative actions on adjacent areas, on mutual social and economic interest, and on the local governmental structure of the County
 - The conformity of the proposal and its effects with both the Commission's policies and the policies on GC §56377



LAFCO Factors



- Factors outlined in Government Code §56668 (cont'd).
 - The effect on the proposal on maintaining the physical and economic integrity of agricultural lands (as defined in GC §56016)
 - Conformity of proposal with lines of assessment, ownership and the identification of irregular boundaries
 - Consistency with land use plans, specific plans (if any) and regional transportation plans



LAFCO Factors



- Factors outlined in Government Code §56668 (cont'd).
 - The applicable sphere of influence of any local agency
 - The comments of any affected local agency
 - The ability of annexing/proposed agency to provide services in a cost effective manner with the generation of sufficient revenues to offset the cost of service extension/provision



LAFCO Factors



- Factors outlined in Government Code §56668 (cont'd).
 - Timely availability of water supplies adequate for projected needs
 - The extent to which the proposal will affect the cities and the County achieve their respective fair shares of the regional housing needs
 - Any information relating to existing land use designations



LAFCO Factors



- Factors outlined in Government Code §56668 (cont'd).
 - The extent to which the proposal will or will not have an adverse impact on an adjacent community (“environmental justice”)



LAFCO Law



- Policy preference is for the Commission to guide development away from existing prime agricultural land (as defined in GC §56064) unless that action would prevent orderly growth (GC §56377)
- Restricts, but does not necessarily prohibit, the annexation of Williamson Act lands to a city (GC §§56426 and 56749)
- All annexations must be consistent with the agency's sphere of influence (GC §56758)



LAFCO Policies



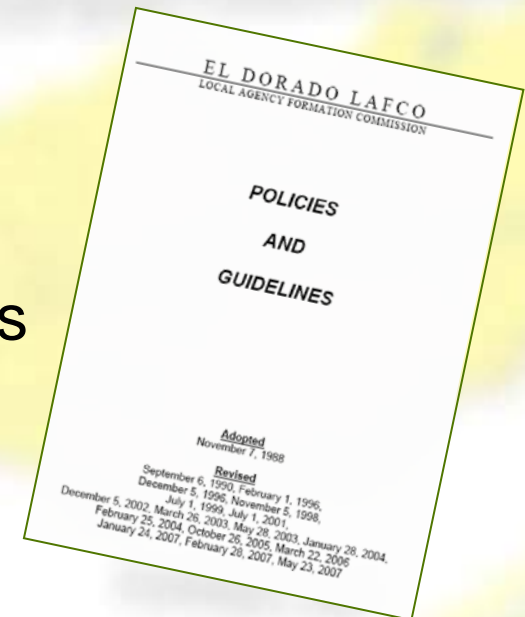
- Case law has established that LAFCOs have significant leeway in crafting local policies so long as they are not inconsistent with State Law
- The courts have also been differential to LAFCOs so long as a Commission's decision on a proposal is not prejudicial, capricious or based upon facts not on the record
- In addition to policies governing the internal operations of this agency, El Dorado LAFCO's Policies and Guidelines have local policies on:
 - The application process
 - CEQA compliance



LAFCO Policies



- El Dorado LAFCO's Policies and Guidelines have local policies on (cont'd):
 - Service plans
 - Consistency with local land use plans and policies
 - Special studies
 - Jurisdiction
 - Reconsideration process
 - Preferred service providers
 - Boundary lines
 - Agriculture
 - SOIs





Independence of LAFCOs



- Exercise independent judgment on behalf of public
- Commissioners make final decisions
- Adopts local policies
- Decisions cannot be appealed to other administrative bodies
- Executive Officer is accountable to Commission and statutes



A Few Words About LAFCO Staff...



- Serves the Commission by providing accurate and comprehensive information
- Analyze and Interpret CKH and other laws (CEQA, General Plans, etc.)
- Processes proposals consistent with CKH and local procedures and policies
- Prepare staff reports, studies and make recommendations
- Implement Commission decisions



LAFCOs In Summary



LAFCO is a political subdivision of the State of California created with regulatory and planning responsibilities

It coordinates the formation and development of local government agencies and services

Case law has recognized and reinforced LAFCO's authority to overrule local entities provided LAFCO's decisions are consistent with its mandate

To assist LAFCOs with determining how well individual proposals fit within its mandate, the Legislature gave LAFCOs Government Code §56668



LAFCO Process



What we do -
Formally



What LAFCO can do?



- **Incorporations**
- **District Formations**
- **Dissolution**
- **Disincorporation**
- **Annexations**
- **Detachments**
- **Outside User Agreements**
- **Spheres of Influence/MSR**
- **Activate Latent Powers**
- **Consolidations- of cities or of districts**
- **Mergers- district is dissolved and city takes over.**



Annexation Process - Overview



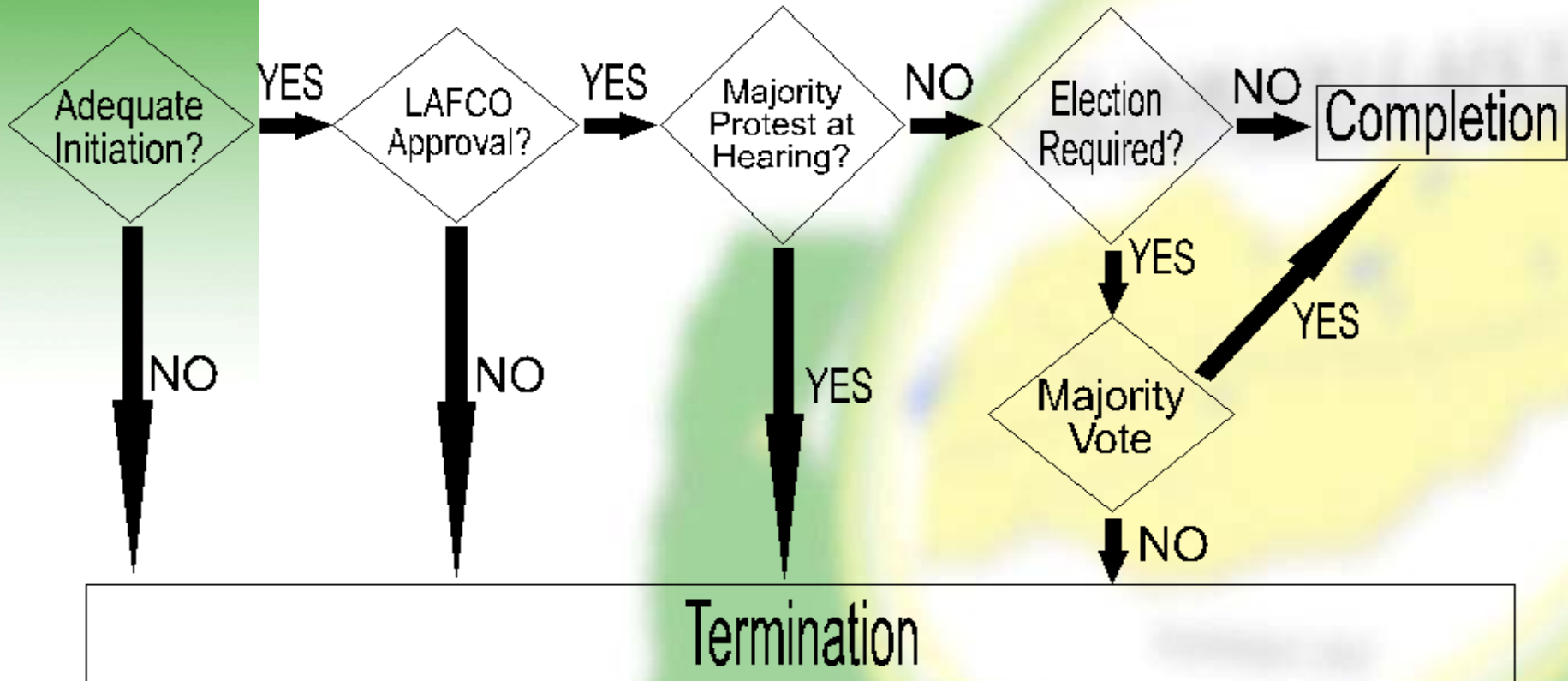
- Application Initiation:
 - Notices given
 - Assessor, Auditor, Affected Agencies
 - Tax Agreement
- Research and analysis
- Public hearing and LAFCO decision
- Conducting Authority Hearing (if needed)
- Completion (record and transmit)



Annexation Process - Overview



Simple LAFCO Procedure





LAFCO Process – Application Elements



- Application forms
- AB-8 agreement
- Application deposits
- Map and legal description
- CEQA determination
- (City must pre-zone if it's a city annexation)
- Service plan



Initiation of LAFCO Process



- An applicant files a petition for a “change of organization or reorganization”
- If the minimum requirements are met, the project is launched. Most notably, the property tax exchange (AB-8) process is initiated



Final Application Requirements



- If the applicable subject agencies agree to a property tax formula as part of the AB-8 process, the final application materials are due:
 - CEQA document (if LAFCO is not the lead agency)
 - 6 maps of the subject territory that comply with the State Board of Equalization guidelines
 - Service Plan



Research & Analysis



- If applicant has submitted all required materials and they are to the satisfaction of the executive officer, a Certificate of Filing is issued that sets the hearing date
- LAFCO staff compiles all information gathered during process including agency comments, CEQA document and AB-8 resolutions to write up the staff report to the Commission addressing all of the GC §56668 factors as well as any other pertinent information



Commission Decision



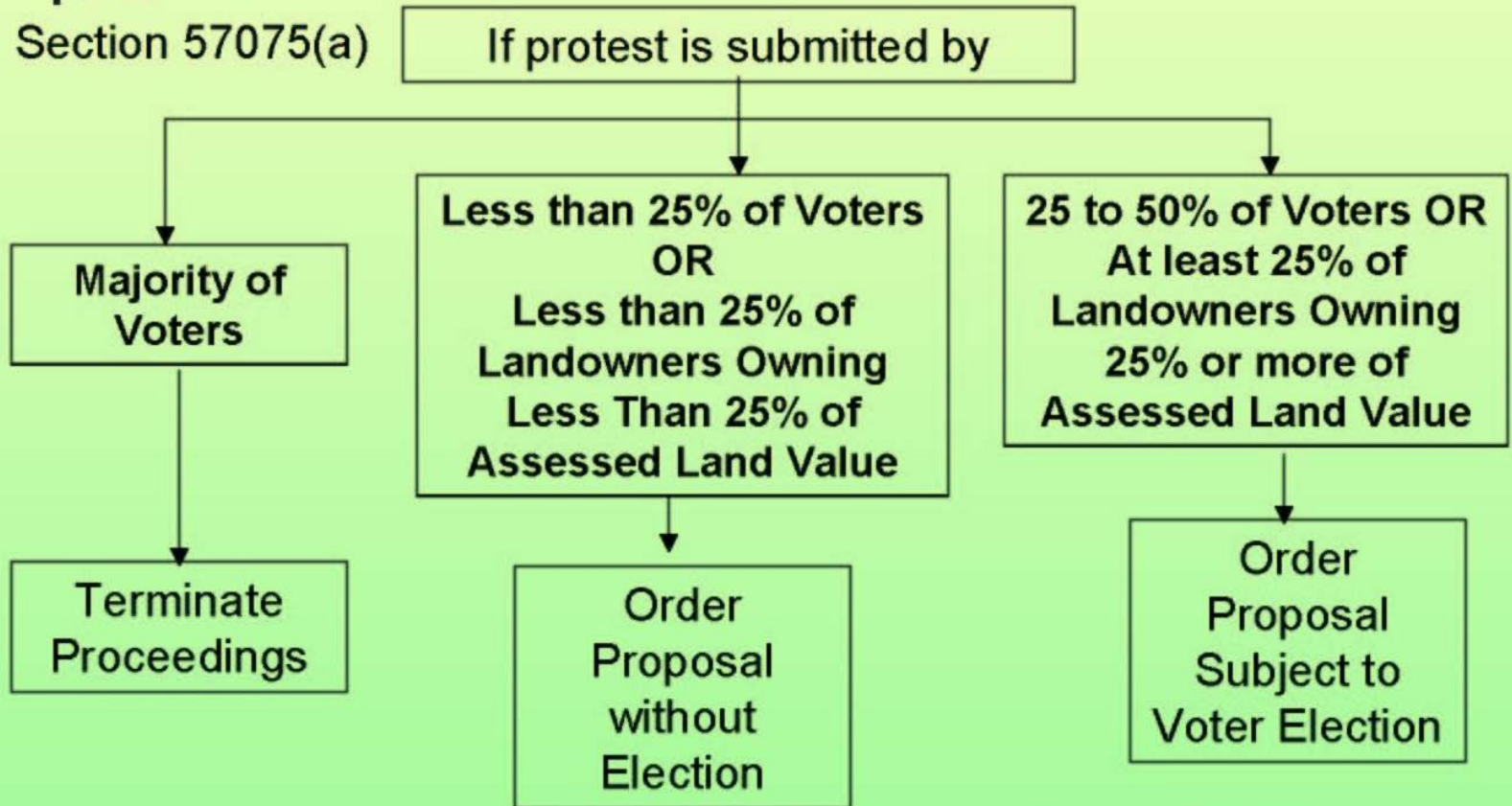
- The Commission considers all of these materials and may approve, deny or conditionally approve the petition. The Commission also has the discretion to modify the proposal if it finds sufficient cause to do so (GC §56375)
- If the project is conditionally approved, the applicant has 12 months from the date of the Commission action to meet all conditions

Conducting Authority - Protests



Protest Thresholds: Inhabited Areas*

Section 57075(a)



* Areas with 12 or more registered voters (Section 56046)



What we do - Formally



So what do the Municipal Service Reviews and Sphere of Influence have to do with anything?

SOIs



The sphere of influence requirement was instituted in 1971 as a means to give LAFCOs the guidance of long term goals

- Delineate the area for probable and desirable growth of each agency
- Resolve turf issues
- Coordinate services and plans

SOIs



SOIs are dependent on the Commission making the following four determinations [Government Code §56425(e)]:

- The area's present and planned land uses, including agricultural and open space areas
- The area's present and probable future need for public facilities and services;
- The agency's present capacity of public facilities and adequacy of public services provided; and
- The existence of any social or economic communities of interest in the area.

Local policies strengthen and clarify the use of, and the requirements to, establish SOIs

SOIs



The original requirement for SOIs did not specify any deadlines for their establishment or when they should be revisited.

Legislation in 1984 established the first deadline for their completion

Many of the sphere boundaries were set with little analytical basis



MSRs



The Commission on Local Governance for the 21st Century believed that carefully considered and up-to-date spheres of influence determinations are critical to LAFCO's responsibility to assure orderly growth and development and prevent sprawl within their jurisdictions.

Goals of MSRs:

- Eliminate the sins of the past (outdated and/or incomplete SOIs)
- Ensure informed future decisions by LAFCOs.



MSRs



MSRs are to gather sufficient data to answer the 7 factors found under Government Code §56430:

- (1) Growth and population projections for the affected area
- (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence
- (3) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
- (4) Financial ability of agencies to provide services
- (5) Status of, and opportunities for, shared facilities
- (6) Accountability for community service needs, including governmental structure and operational efficiencies
- (7) Any other matter related to effective or efficient service delivery, as required by commission policy

On January 30, 2008, the Commission voted to make “The potential effect of agency services on agricultural and open space lands” the seventh factor in an MSR.



MSRs & SOIs



The common thread is the Legislature's encouragement of LAFCOs to make informed decisions on individual proposals through planning:

- SOIs are intended to reflect realistically probable future boundaries of an agency
- The MSR requirement is to provide information to LAFCO and to the public to support the Commission's determination for those SOIs



MSRs & SOIs



MSRs are unlike:

- General plans
- Annual reports or budgets
- Grand Jury investigations

LAFCO is tasked to be a neutral third party that takes a longer term view of “the big picture”



A Different Role



What we do -
Informally



A Different Role



El Dorado LAFCO staff strives to be a consultant, broker, facilitator and educator

- Consultant – Able to conduct research for other parties
- Broker – Assist with resolving policy issues among agencies
- Facilitator – Look for win-win scenarios
- Educator – Present ideas, options and results of research



A Different Role



LAFCO staff receives calls daily from agencies, elected officials, applicants and the public relating to finances & governmental structure of local agencies

LAFCO staff can access information from other LAFCOS. By tapping into this resource, LAFCO can learn from examples all around the state.

LAFCO can be a clearinghouse for ideas



LAFCO Can Be a Partner



- Partnership:
 - Understanding each agency's role
 - Information sharing
 - Request for Comments for specific proposals
 - Consultations
 - Involvement in discussions over spheres of influence



LAFCO Can Be a Partner



- Partnership (cont'd)
 - How can LAFCO assist with land use agencies' goals?
 - How can LAFCO help agencies provide better, more efficient service?
 - What role does the Commission see for itself in shaping the growth and development of El Dorado County?



LAFCO Can Be a Partner



Examples from other LAFCOs:

- Agricultural Conservation Policy – Monterey, San Joaquin, Santa Clara & Yolo LAFCOs
- Service sharing among agencies – Orange LAFCO
- Addressing gaps in fire service – San Bernardino & San Diego LAFCOs



El Dorado LAFCO



Questions and Discussion