

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## *AGENDA OF MARCH 24, 2010*

### *REGULAR MEETING*

**TO:** Ken Humphreys, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission

**FROM:** José C. Henríquez, Executive Officer

**AGENDA ITEM #5:** PUBLIC WORKSHOP TO DISCUSS MUNICIPAL SERVICE  
REVIEWS AND SPHERE OF INFLUENCE STUDIES

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#### **RECOMMENDATION**

Staff recommends that the Commission receive and discuss the following information on Municipal Service Reviews and Sphere of Influence updates to guide its decisions on the LAFCO budget.

#### **REASON FOR RECOMMENDED ACTION**

This Workshop was requested by Commissioner Sweeney to start a dialogue regarding the need to fund outsourcing Municipal Service Reviews and to spur a discussion between local and State officials regarding the MSR requirement.

#### **BACKGROUND**

##### *Creation of LAFCOs*

In order to better understand Municipal Service Reviews, it is important to go back to the beginning and to understand why LAFCOs exist. The creation of LAFCO was a legislative response to actions by local jurisdictions in the 1940s and 1950s. Agencies incorporated or annexed large, irregular portions of land in a manner resulting in irrational boundaries, including:

- Overlapping boundaries: Conflicts arose over which agency would provide service when multiple entities providing the same and similar services presided over the same area.
- Inefficient service boundaries: Agencies gerrymandered themselves to serve the “choice” areas (usually new development projects) and ignoring “less desirable” areas (typically already built out areas or minority neighborhoods). This practice caused extremely peculiar infrastructure networks that proved costly to maintain in

the long run and confusion among citizens as to which entity is actually providing services.

- Unnecessary conversion of prime agricultural land and isolated populations without efficient services or with no services at all: Land use entities were approving development projects without regard to the capacity and capability of providing service.

In 1959, former Governor Pat Brown created the Commission on Metropolitan Area Problems, whose charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of local governmental jurisdictions. The Commission's recommendation was to create a single State agency to oversee all local governmental boundaries, but the Legislature changed LAFCO to be a State agency with local representation. Consequently, a LAFCO is not a body of appointed officials but a State regulatory agency overseeing the orderly and efficient provision of local services. In other words, LAFCOs are intended to implement State mandates, taking into account local circumstances. However, State Law advises LAFCO officials that their primary purpose is to carry out their duties as Commissioners:

*"While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person." (Emphasis added, Government Code §56325.1)*

#### Main Duties of LAFCOs

LAFCOs were given four broad mandates (Government Code §56001). This section, and other code sections referenced in the discussion, will be attached to this report for reference:

- Promote orderly growth and development
- Discourage urban sprawl
- Preserve open space and agricultural resources
- Encourage efficient service areas for local governments

These four mandates can sometimes be in conflict with each other on a proposal-by-proposal basis; however, specific conflicts have not diminished the overall broad purpose of LAFCO, a role that has been recognized and reinforced in case law and has come to be defined as the "Legislature's Watchdog:"

*"LAFCOs were created by the Legislature for a special purpose: to discourage urban sprawl and to encourage the orderly formation and development of local governmental agencies; such a commission is the 'watchdog' the Legislature established to guard against the wasteful duplication of services that results from indiscriminate formation of new local agencies or haphazard annexation of territory to existing local agencies." Fifth District: 274 Cal.App.2d 545. 1 July 1969 (City of Ceres v. City of Modesto)*

To assist LAFCOs with determining how well individual proposals fit within those four mandates, the Legislature mandated that Commissions use 15 factors for the Commission to consider when evaluating proposals (Government Code §56668 and LAFCO staff further breaks the 15 factors into 28 smaller questions).

### Spheres of Influence Mandate

The legislature first required LAFCOs to adopt spheres in response to criticism that LAFCOs were making boundary decisions without the guidance of long-range goals. "Spheres of Influence" (Government Code §56425) were intended to be used as policy and planning tools, taking a long range approach towards implementing the four broad mandates. Because they were designed to be a long range policy tool – similar to budgets or work plans - SOIs help inform and assist local agencies with their planning activities.

Described as the "constitution for LAFCO decisions," SOIs are similar to general plans in that they are blueprints for the probable and foreseeable future boundaries of each agency. SOIs are supposed to coordinate services and plans and resolve turf issues by answering these 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.

El Dorado LAFCO's Policies and Guidelines further clarify that SOIs will be subject to a periodic five-year review (Section 4.2) and this Commission's goals for spheres for influence by stating that SOIs (Section 4.1):

- Serve as a master plan for the future organization of local government within the County by providing long range guidelines for the efficient provision of services to the public;
- Discourage duplication of services by two or more local governmental agencies;
- Guide the Commission when considering individual proposals for changes of organization;
- Identify the need for specific reorganization studies, and provide the basis for recommendations to particular agencies for government reorganizations.

Practices vary from LAFCO to LAFCO on how "probable and foreseeable future" is defined, with many LAFCO's using the same time horizon in a city's general plan for the sphere designations. In recent history, El Dorado LAFCO has utilized one of three different time horizons:

- Not specifying a time horizon for agencies, usually used on agencies not expected to grow;

- Specifying 10 and 20 year SOIs for large agencies that have had a recent history of growth; and
- Not specifying a time horizon for large agencies with historic growth patterns.

In addition, with the exception of approximately seven agencies, this Commission has not adjusted the historic SOIs for most agencies, choosing instead to affirm their existing sphere. These SOIs were drawn decades ago with little or no analysis on the resources or finances available to the agency.

#### Municipal Service Reviews Requirement

The initial SOI statutory mandate, in 1971, imposed no deadline for completing initial sphere designations. When most LAFCOs failed to act, legislation was enacted in 1984 requiring all LAFCOs to establish spheres of influence by 1985. All LAFCOs met that deadline; however, many of the sphere boundaries were set with little analytical basis and by the year 2000, only 30 of the 58 LAFCOs had completed comprehensive studies to update their spheres.

In 2000, the Legislature created the Commission on Local Governance for the 21<sup>st</sup> Century (CLGC), which analyzed, among other things, LAFCO Law and recommended changes to the way LAFCOs operated. Many of the Commission's recommendations were incorporated into the law that became the Cortese-Knox-Hertzberg Act. Among the findings, the CLGC 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. The twin challenges were to eliminate the sins of the past (outdated and/or incomplete SOIs) and ensure informed future decisions by LAFCOs. The CLGC reasoned that if the goal is viable public agencies that strike a balance between accommodating growth while preserving valuable resources and community character, then it follows that the goal can only be achieved through the possession of timely information that can be used to create spheres that direct growth consistent with that balance:

*“Meaningful spheres will not be possible unless they are regularly updated based upon comprehensive studies and they incorporate actual and projected information on trends in growth and development, service capacities, and public preferences.”* (Commission on Local Governance for the 21<sup>st</sup> Century)

From this recommendation arose the municipal service review requirement, which is found in Government Code §56430. It states in part, *“In order to prepare and to update sphere of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county...”* Each service review, must address six factors, which are:

- (1) Growth and population projections for the affected area.
- (2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- (3) Financial ability of agencies to provide services.
- (4) Status of, and opportunities for, shared facilities.

- (5) Accountability for community service needs, including governmental structure and operational efficiencies.
- (6) 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 sixth factor in an MSR.

In 2006 and 2007, the Commission allocated sufficient funds into its budget so that consultants would supplement staff in the completion of the MSR/SOI update project. The Commission adopted the last MSR in December 2007 and updated all but one SOI by March 2008 (Grassy Run CSD's SOI was not updated at the district's request, pending the successful settlement with the Shingle Springs Band of Miwok Indians).

### Discussion

Based on the rationale behind the CLGC's recommendation, and subsequent adoption by the Legislature and El Dorado LAFCO's adoption of Section 5 of its Policies and Guidelines, SOIs are intended to reflect realistically probable future boundaries of an agency. Also based on these documents, the impetus behind the MSR requirement is to provide information to the Commission and to the public to support the Commission's determination for those SOIs. Said in another way, the MSRs are intended to provide the big picture, or necessary background knowledge on the current state of an agency, to supplement the information the applicant has provided on individual applications. For example, an applicant may want to annex into a district and only provide information that is supportive of the annexation in the petition materials, but the MSR and SOI for that agency can be used as an objective tool to determine whether the annexation should be approved because MSRs are supposed to paint a more complete picture.

The way LAFCO staff describes the ideal relationship between MSRs and SOIs is that the MSR takes a snapshot in time to determine objectively where the agency is currently with resources and finances. It then uses that data to extrapolate where the agency should be within a time horizon based on long term trends and on land use preferences determined by the land use agency. For example, an SOI should direct growth towards areas where growth is expected and away from areas where it is discouraged (for example, agricultural zones). But the adequacy and effectiveness of MSRs and SOIs are what a LAFCO makes them to be.

The MSR and SOI differ from a general plan in that a general plan guides the growth and land development of a community, for both the current period and the long term. The General Plan is the foundation for establishing goals, purposes, zoning and activities allowed on each land parcel to provide compatibility and continuity to the entire region as well as each individual neighborhood. Depending on the jurisdiction, a general plan can be overly broad and may not contain sufficient, objective information relating service capacity and capability. Most importantly, because general plans are also intended to regulate land use, only cities and counties generate them.

For special districts that prepare annual reports, the information in these reports may be limited by the priorities of the board of directors. For example, in the Fire MSRs, LAFCO staff has utilized raw data from Camino Dispatch because each individual fire agency converts call data to address local preferences in how the data is reported. As

a result, there is no uniformity in definitions from one fire district to the other. In addition, not all agencies prepare these reports and the quality of data within these reports varies significantly. Some agencies prepare extensive, data-intensive reports with a prognosticative section that addresses resource planning; others simply summarize the events from the prior years and contain limited information which may or may not be used for long term planning.

MSRs and SOIs differ from Grand Jury reports in that grand juries only get involved when there is a question of misconduct on the part of the agency or of its representatives. They are rarely periodic and seldom used for long term planning. MSRs are not intended to investigate malfeasance.

As the Commission weighs the question of the relative value of MSRs, it should discuss the following:

- 1) Has the Commission used the MSRs when evaluating recent annexations?
- 2) Does the Commission find MSRs useful and valuable in general? If not, why not? What would make them more useful?
- 3) Several Commissioners expressed a willingness to create MSRs that are at a "bare minimum." Within the state requirements of addressing the six factors in Government Code 56430, what does "bare minimum" mean? If the MSRs are kept "at a minimum," what effect would that have on LAFCO's decision-making process?
- 4) If LAFCO does not compile a comprehensive MSR, then how comfortable is this Commission with relying on information provided by the applicant and/or another agency's data?
- 5) Should the Commission choose to have more comprehensive MSRs, would the Commission be supportive of making a stronger connection between the conclusions arrived at by the MSRs and the subsequent SOIs?
- 6) How active should this Commission be with long term planning?
- 7) What specific and concrete direction can be given to staff relating to MSR creation and data gathering?
- 8) What feedback does this Commission want to give to legislative representatives?

#### Attachments

Attachment A: Government Code §56001

Attachment B: Government Code §56668

Attachment C: Government Code §56425

Attachment D: LAFCO Policies & Guidelines Section 4

Attachment E: Government Code §56430

Attachment F: LAFCO Policies & Guidelines Section 5