

To: The EDC LAFCo Commissioners

CC: The EDC LAFCo Staff

From: Michael W. Powell, The Public Commissioner



Date: 27 October 2021

Subject: Strategic Ad Hoc Committee and MSR Project Plan Review (Agenda Item #9)

EDC LAFCo oversees 56 agencies of which 3 are pass-through only, i.e. no management required. These remaining agencies are split almost equally between those which do, and do not, provide public services or facilities. In 2010 and 2013, the last MSR Project Plan was presented to the LAFCo Commission which was not being completed on-time, after 2017-18.

The CKH 2000 mandatory law requires EDC LAFCo to update the adopted SOIs for its public agencies every 5 years. Before a SOI can be updated, first, a new MSR must be completed. As an example of this above CKH 2000 fact, attached is a copy of a 2016-17 Solano County (SC) Grand Jury (GJ) Report, addressing a complaint that the SC LAFCo was not completing the mandatory SOI/MSRs on-time, as required in CKH 2000. Only the SC public agencies were included in this Report, along with a spread-sheet that shows the "Last MSR" and "Update Due" dates for each one. Recently, the date on which a CA County updates a Housing Element in its General Plan could also be used to modify the mandatory SOI/MSR due date in CKH 2000.

In addition, the CKH 2000 law requires EDC LAFCo to oversee that each one of its non-public agencies, e.g., a coterminous agency with only road services, are operating efficiently, by continuously tracking (no due date) its management and financial historical performance.

Given the CKH 2000 law requirements above, the Strategic Ad Hoc Committee for the MSR Project Plan review has two tasks to perform, as follows:

- (1) Provide the current on-time status for only the mandatory CKH2000 public agencies in EDC, in a manner similar to the spread-sheet in the attached SC GJ Report. This spread-sheet will show, for 2021-22 and beyond, that the required CKH 2000 SOI/MSR updates can be completed on-time, by forecasting the EDC LAFCo budget resources needed, in advance, in order to meet "Update Due" completion date for each one of its public agencies.
- 2) Prioritize the dates for an EDC LAFCo oversight review of the CKH 2000 non-public agencies in EDC, according to a criteria based upon their currently known operational efficiencies, using their last MSR update, etc. This will require a creation of new EDC LAFCo Oversight Guidelines, including requirements for having agency site visits with its management; obtaining copies of annual financial reports; etc. Any SOI change for a non-public agency will require that an application be made to EDC LAFCo. Last, any non-public agency found to be inefficient can be added to the spread-sheet for an MSR "Update Due" date, or for a possible dissolution action, as both are determined by the LAFCo Commission.

Thank you, in advance, for accepting this related information.

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**EL DORADO LAFCO**  
LOCAL AGENCY FORMATION COMMISSION

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***AGENDA OF OCTOBER 27, 2021***

***REGULAR MEETING***

**TO: John Hidahl, Vice Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission**

**FROM: Erica Sanchez, Interim Executive Officer**

**AGENDA ITEM #9: DISCUSSION ON THE MEMBERSHIP TO A STRATEGIC  
PLANNING AD HOC COMMITTEE TO REVIEW AND MAKE  
RECOMMENDATIONS REGARDING THE MSR PROJECT  
PLAN**

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**RECOMMENDATION**

Staff recommends the Commission consider forming a Strategic Planning Ad Hoc Committee to make recommendations regarding the next MSR Project Plan.

**REASON FOR RECOMMENDED ACTION AND BACKGROUND**

This item is on the agenda at the direction of Chair Hidahl, based on a request made by Commissioner Powell at the September 22 meeting. The recommendation is to consider forming an ad hoc committee of up to three Commissioners to make recommendations regarding the next MSR project plan. Items to consider include which agencies need to be studied, whether or not to contract out for some studies, and other changes to how the MSRs are prepared (individually or grouped by service, the length of the cycle, etc.).

The MSR project plan is typically discussed in conjunction with the budget planning process; the draft FY 2022-23 budget is scheduled to be presented to the Commission early this year with the assistance of contracted support staff. The time commitment would be approximately 2-3 meetings.



**SOLANO COUNTY GRAND JURY**  
2016-2017

**Local Agency Formation Commission  
(LAFCO)**

**Local Agency Formation Commission  
(LAFCO)  
2016-2017 Solano County Grand Jury**

**I. SUMMARY**

The role of a Local Agency Formation Commission (LAFCO) is to implement the Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000. The CKH requires all LAFCOs to conduct a Municipal Service Review prior to updating a sphere of influence for a city or a special district (Government Code section 56430). The CKH requires a Municipal Service Review and Sphere of Influence update every five years for each jurisdiction. Since 2006, Solano LAFCO has not published municipal service reviews on a five-year schedule. Many reviews are not current. Proper planning cannot be done without intercity/county collaboration and current Municipal Service Reviews. The 2016-2017 Solano County Grand Jury investigated the lack of timely reviews from LAFCO.

**II. INTRODUCTION**

Solano's LAFCO is composed of five members: two members from the Solano County Board of Supervisors, two mayors, and a member from the general public. All members are required by law to represent the interests of the entire public and not their specific electoral base.

State law known as the Cortese-Knox Act established a LAFCO (Local Agency Formation Commission) in each county in 1963, empowering it to review, approve, or deny proposals from cities, counties, and special districts for boundary changes and incorporations/formations. LAFCO is also authorized to delay or deny developments that don't meet requirements and may contribute to urban sprawl and reduce quality of life for residents.

In 2000, the Legislature passed AB 2838 (Hertzberg). This new law known today as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 expanded the powers and duties of LAFCO to clarify that it serves *"not only in the oversight of local government boundaries, but in evaluating and guiding the efficient, cost-effective, and reliable delivery of municipal services to California's citizenry."* These mandated evaluations are known as Municipal Service Reviews (MSRs). MSRs are collections of data from county, cities, and special districts that describe critical municipal services such as water/sewer; police, fire, and medical/ambulance services from first responders; and Environment Impact and Air Quality Reports. *"A major benefit of MSRs to local agencies is the creation and maintenance by LAFCO of countywide data."* Without this data, cities cannot efficiently forecast growth plans, and plan accordingly. As previously noted, in the Cortese-Knox Act LAFCO continues to have the authority to approve or reject development plans that may contribute to urban sprawl and impact quality of life in the County.

State law requires each city and county to prepare and adopt a “comprehensive, long-term general plan for the physical development” of the community. This general plan must cover all incorporated territory and should go beyond the city limits to include land outside its boundaries which relates to its planning. *“A city’s general plan is an important statement of the city’s future intent. It allows city officials to indicate to State agencies, local governments, and the public their concerns for the future of surrounding unincorporated lands. Since the general plan is a policy document with a long-term perspective, it may logically include adjacent territory the city ultimately expects to annex or to serve, as well as any area which is of particular interest to the city.”*<sup>1</sup> This adjacent territory is defined as a city’s Sphere of Influence (SOI). The SOI can be used as a benchmark for the maximum extent of the city’s future service area within the next few years.

LAFCOs’ major planning task is the establishment, periodic review, and update of SOIs for the various governmental bodies within their jurisdictions. In establishing, amending, or updating a SOI, a LAFCO must consider and make written determinations with regard to the following factors (Section 56425e): The present and planned uses in the area, including agricultural and open-space lands.

1. The present and probable need for public facilities and services in the area.
2. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide.
3. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

In 2011, SB 244 added one more requirement: “For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.” (SB 244, Chapter 513, Statutes of 2011)

Existing law does not provide for any sequence for completing MSRs in a county with many cities and special districts. It does however require that a review be completed and available at any time LAFCO reviews an SOI for potential revision. Most MSRs in California were due by 2008 and scheduled for revision in 2013. As stated in the Act, **“On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.”**<sup>2</sup>

The California Office of Planning and Research recommends that each LAFCO develop a multi-year schedule to provide adequate notice to service providers and the public as well as ensuring that all municipal service reviews are available when they are needed by LAFCO to review SOIs.

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<sup>1</sup> LAFCOs, General Plans, and City Annexations, p.5

<sup>2</sup> Guide to the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000, December 2016, p. 62.

Several cities in Solano County are currently increasing their housing numbers and considering the expansion of their SOIs. Cities are responsible for providing local municipal services to keep up with the growth. LAFCO must approve expansion of SOIs and annexation requests before some areas of growth can proceed. The 2016-2017 Solano County Grand Jury inquired into the process of how LAFCO is fulfilling its responsibility to update municipal service reviews for cities and special districts in Solano County.

### III. METHODOLOGY

#### Interviewed

- City elected officials
- Members of the staff in:
  - Local Agency Formation Commission (LAFCO)
  - Solano County Resource Management

#### Reviewed

- General Plans and other long-term plans and documents from:
  - City of Fairfield
  - City of Vacaville
  - City of Benicia
  - City of Dixon
  - Solano Transportation Authority
  - The Governor's Office of Planning and Research
  - Association of Bay Area Governments (ABAG)
- Various MSRs
- Minutes from:
  - LAFCO meetings
  - Board of Supervisors meetings
  - City Council meetings
- Current websites:
  - Solanolaftco.com (Solano LAFCO)
  - Calafco.org (California Association of LAFCO Commissions)
  - Opr.ca.gov (California Governor's Office of Planning and Research)
- Relevant guidance documents from the State of California:
  - Local Agency Formation Commission Municipal Service Review Guidelines (August, 2003)
  - Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (December 2016)
  - LAFCOs, General Plans, and City Annexations (February, 2012)
  - Senate Bill 244: Land Use, General Plans, and Disadvantaged Communities, PUBLIC REVIEW DRAFT (September, 2012)

### III. STATEMENT OF FACTS

LAFCO is the agency responsible for ensuring that all MSRs in Solano County are complete and current (i.e. updated at least every five years) so they can be used for review and approval of changes to SOIs.

As the agency that was formed to “discourage urban sprawl”, LAFCO is responsible for setting city boundaries (i.e. city limits) and SOIs. It does not impact decisions about new development within city limits or within the county unless special districts providing essential services such as water or fire protection are overlaying the area. LAFCO uses the MSR process to confirm services are available and sufficient to support changes in boundaries. Once city boundaries are established, final authority for decisions about land use rests with City Councils for development and growth within their limits and with the Board of Supervisors for unincorporated areas.

The 2016-2017 Solano County Grand Jury looked at the current timeliness of MSRs for cities and special districts within Solano County. In June 2016, LAFCO reported only the following cities and special districts as having current MSRs dated within the last five years:

- Fairfield, approved in 2012
- Dixon, approved in 2014
- Vacaville, approved in 2014
- Cemetery Districts, approved in 2012
- Fire Districts, approved in 2014

The following tables show information found in LAFCO work-plan documents<sup>3</sup>.

**Status of City MSRs**

<i>Date of information:</i>	<b>In 6/2016</b>	<b>In 6/2016</b>	<i>In 12/2016</i>
<b>City</b>	<b>Last MSR</b>	<b>Update Due (past due)</b>	<i>Update Status/ scheduled</i>
Benicia	2005	<b>(2010)</b>	<i>In progress</i>
Dixon	2014	2019	<i>MSR complete</i>
Fairfield	2012	2017	<i>2017-18</i>
Rio Vista	2006	<b>(2011)</b>	<i>2016-17</i>
Suisun City	2005	<b>(2010)</b>	<i>MSR completed 2016</i>
Vacaville	2014	2019	<i>2016-17</i>
Vallejo	2004	<b>(2009)</b>	<i>on hold</i>

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<sup>3</sup> Work plans were found in published minutes of LAFCO meetings. "Date of Information" in the charts refers to the date of the meeting minutes containing the work plan documents.



**Status of Special District MSRs**

<i>Date of information:</i>	<b>In 6/2016</b>	<b>In 6/2016</b>	<i>In 12/2016</i>
<b>Special District</b>	<b>Last MSR</b>	<b>Update Due (past due)</b>	<i>Update Status/scheduled</i>
Cemetery Districts	2012	2017	<i>2016-17</i>
Fire Districts'	2014	2019	<i>MSR Complete</i>
Mosquito Abatement	2006	<b>(2011)</b>	<i>2017-18</i>
Reclamation Districts	2009	<b>(2014)</b>	<i>as needed</i>
Recreation Districts	2006	<b>(2011)</b>	<i>2016-17</i>
Resource Conservation Districts	2006	2020	<i>MSR Complete</i>
Sanitation Districts	2006	<b>(2011)</b>	<i>in progress</i>
Water Districts	2009	2020	<i>MSR Complete</i>

**V. FINDINGS AND RECOMMENDATIONS**

**Finding 1-** LAFCO has not completed Municipal Service Reviews for cities and special districts to regularly meet the five-year requirement.

**Recommendation 1-** LAFCO implement a reliable system to complete Municipal Service Reviews at least every five years as required by the Cortese-Knox-Hertzberg Act.

**REQUIRED RESPONSES**

Solano LAFCO

**COURTESY COPIES**

Clerk, Solano County Board of Supervisors  
Members of LAFCO

**COMMENTS**

In the course of the investigation by the Grand Jury, it appears action was taken by LAFCO to accelerate the completion of MSR updates.