

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF OCTOBER 23, 2013

REGULAR MEETING

TO: Don Mette, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #6: LAFCO 101 – PUBLIC WORKSHOP ON LOCAL AGENCY
FORMATION COMMISSIONS, AUTHORITY AND POWERS

RECOMMENDATION

None. This is an informational workshop on the agency, authority and powers.

REASON FOR RECOMMENDED ACTION AND BACKGROUND

Over the past year, five new members have joined the Commission (three regular and two alternates). The number of new Commissioners increases by two more if the horizon is expanded to late 2011. Because of the large turnover, the Commission requested this workshop to serve as a primer for new members and a review for continuing members.

In addition, because this agency works with many partners but is largely unknown to the public, the request included an invitation to these groups. Flyers were created and invitations were distributed to the press, partner non-profits and to local agencies during the week of September 30th.

This report serves as an introduction to the topics that will be covered in the workshop.

LAFCO Beginnings

Following World War II, California experienced explosive growth dramatic growth in population and economic development, mostly in Southern California. In the early 1960s, then-Governor Pat Brown formed the Commission on Metropolitan Area Problems to study the issue of “jigsaw governments.” This was the term used to describe public service providers that were created and expanded haphazardly, encompassing “favorable territories” and bypassing “unfavorable areas.” As a result, inefficiencies in service delivery were introduced and public agency service areas made no sense to the general public. There was also no evidence that the existing system at the time was capable of accommodating the increased demand for government services due to the population growth. Many new local government agencies were created with little forethought as to the ultimate governance structures in a given region. The lack of

coordination and adequate planning led to a multitude of overlapping, inefficient jurisdictional and service boundaries and the premature conversion and loss of California's agricultural and open-space lands.

The Governor's Commission recommended a single state agency that would regulate local boundaries. The cities and counties vehemently opposed this proposal. A compromise was reached with the creation of LAFCOs in 1963, a State agency with local representation. Its task was to implement State law while taking into account local circumstances. LAFCO's mandate encompasses four broad goals:

- Promote orderly growth and development
- Discourage urban sprawl
- Preserving open space and agricultural lands
- Encourage the efficient provision of public services

In the decades following, LAFCOs have undergone multiple reforms, the most substantial beginning in 1997 with the formation of the Commission on Local Governance in the 21st Century. Ultimately, the Commission released "Growth Within Bounds," a comprehensive report recommending further changes to the laws governing LAFCOs. These recommendations became the foundation for the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (also known as CKH, Government Code 56000 et seq.), an act that mandates greater independence for LAFCOs and further clarifies their purpose and mission.

LAFCO Structure and Budget

In El Dorado County, the Commission is composed of two supervisors, two city council members, two directors from the independent special districts and one person representing the public as a whole. Each of these four categories has an alternate. This means that El Dorado LAFCO has eleven Commissioners, seven regular (voting) members and four alternates.

The following information relates to the current structure of LAFCO as reorganized under CKH. Prior to January 2001, LAFCO's sole source for funding and staffing was the County. The Commission appoints Counsel to handle legal matters and an Executive Officer (EO) who serves as the lead adviser and administers the day-to-day operations of the agency. The EO and Counsel serve at-will to the Commission. The EO hires staff at Commission-authorized levels and consistent with the budget and workload. The LAFCO employees are at-will to the EO. The LAFCO staff includes a full-time Policy Analyst and a part-time Administrative Assistant. The Commission Clerk position is authorized, but has been vacant since 2008 for budgetary reasons.

The funding for the Commission comes from four revenue streams: Applicant fees, interest revenues, carryover from the previous fiscal year and agency contributions. Applicant fees vary depending on the level of activity. Interest revenues are dependent on the interest rate of the LAFCO money market account. The carryover amount depends on budget savings achieved from one year to the next. The category of agency contributions is the largest revenue stream. The total agency contribution amount is divided into thirds, with the County paying a third of this share, the two cities splitting a second third and the 48 independent special districts splitting the last third.

LAFCO Powers and Authority

The California Constitution grants to the Legislature the right to regulate the boundaries of local agencies. The Legislature delegated that authority to LAFCOs, and the courts have consistently recognized LAFCOs' role as the "Legislature's watchdog." CKH encapsulates the powers and authority of LAFCO. The Commission may adopt local policies further clarifying State Law so long as the policies do not run counter to CKH. For the past five decades, the Legislature continuously adjusts, defines and redefines LAFCO's powers to conform the authority to regulate boundaries vis-à-vis LAFCO's four broad goals.

Broadly speaking, LAFCO has three powers:

- Review, approve, disapprove boundary changes (also includes the formation, consolidation or dissolution of local agencies)
- Conduct studies
- Set "Spheres of Influence" (SOIs)

LAFCO has the discretionary power to approve, disapprove or conditionally approve projects. This means that LAFCOs can override a land use authority's decision (e.g. county or a city). This power has three important checks. First, LAFCOs do not have direct land use authority, although courts have recognized that a LAFCO decision can have indirect land use impacts. Second, courts have been differential to LAFCOs provided that the decisions are based on facts on the record and that the LAFCO process was followed judiciously. This means that the facts must address one or more of the factors in Government Code §56668. Third, LAFCOs cannot initiate their own proposals except under certain, narrow circumstances.

It must be noted that even though CKH is the LAFCO principal act, LAFCO must also refer to and comply with other statutes. Since the only body that could overrule a LAFCO decision is a court, there has been a significant volume of case law that a Commission must also observe.

Attachment A contains an analysis on LAFCO challenges prepared by Peter M. Detwiler, retired lead consultant for the State Senate Local Governance & Finance Committee. It also contains summary of significant changes to California land use and boundary statutes. This analysis was shared at the recent CALAFCO Conference.

MSRs & SOIs

As a planning agency, LAFCO is tasked with determining the future service boundaries of all local agencies within its jurisdiction. This is the role of the municipal service review requirement and SOIs: The MSR was intended to be a "snapshot in time," showing how an agency is currently providing services. That data was then used to extrapolate how much and how fast that agency was capable of expanding services over time. These studies have an additional function, which is to provide to the Commission with "the big picture" as it considers individual proposals. This way, the Commission is not making a decision with narrowly-drawn, project-specific information.

From changes that the Legislature has made to Government Code §56430 (MSR) and §56425 (SOI) over the years, it is clear that the intent is for LAFCOs to be more methodical with its planning function. The Legislature is also intending for these studies

to be more comprehensive in the amount of information that is provided. The most recent changes were the requirement to identify “disadvantaged communities.” With the recent municipal bankruptcies, it is conceivable that the Legislature will add more requirements on the closer inspection of an agency’s finances.

In 2010 the Commission held a workshop on MSR/SOIs, their history and function. The staff report (minus its attachments) is provided with this staff report as Attachment B.

A Different, Informal Role

LAFCO has worked hard to be regarded as an answers-oriented, neutral third-party. LAFCO staff must go through a lot of information in order to prepare comprehensive reports and MSR/SOI studies. In addition, it is also in regular contact with colleagues from throughout the state on many policy issues. As a result, staffs and officials from other agencies contact LAFCO to troubleshoot situations and problems related to governance structure and finances. LAFCO staff has, in some instances, become the “research arm” of other agencies. While some of the issues can be outside of LAFCO jurisdiction, options are still researched or provided unless there is a better resource or the issue is clearly outside of staff’s expertise. The goal is to provide solid options that an agency may pursue unilaterally or in partnership. Examples include:

- Fire district service boundaries (Georgetown-Garden Valley FPDs, “Plan A,” El Dorado Hills CWD-Latrobe FPD)
- The 2010 Fire and Emergency Services Studies (aka “Citygate Report”)
- Dissolution discussions (Grassy Run, Rising Hill Road and Rolling Hills CSDs)
- District break-up (East China Hill and Marble Mountain Homeowners CSDs)

Commissioner Fleege had asked what other counties have done in the area of consolidations and dissolutions, especially since, by design in law, LAFCO does not have much authority in being the main driver of consolidations or dissolutions. The question was posed to other LAFCOs and Attachment C contains the responses that were received.

Discussion

Just as each LAFCO has its own interpretation of State Law, each Commissioner can have his/her own view about LAFCO’s responsibilities. Questions such as “What does this LAFCO want to accomplish?” and “Where should this LAFCO concentrate its limited resources?” should be central to the discussion in this workshop.

Attachments

Attachment A: California Within Limits: Research Notes for a History of California’s Local Boundary Laws

Attachment B: March 24, 2010 Staff Memo (without attachments)

Attachment C: Responses from Other LAFCOs Relating to Consolidations and Dissolutions