Promote orderly growth
Discourage Urban sprawl
Preserve agriculture and open space
Encourage efficient, sustainable public services
WATER
FROM THE
COLORADO RIVER
WE NEED IT
Let's go
AND
GET IT!

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WHY WE NEED COLORADO RIVER WATER IN SOUTHERN CALIFORNIA

YESTERDAY
ARTESIAN WELLS

TO DAY
120 TO 350 FT.
TO WATER

We need your help. Sign the enclosed card NOW—and thereby indicate your support of a project that means the very life of our Southern California.

CITIZENS COLORADO RIVER WATER COMMITTEE
Central Headquarters: Ground Floor, Title Guarantee and Trust Bldg.
Fifth and Hill Streets, Los Angeles
July, 1931
LAFCo in Every County

30 have Special Districts Seated

Boundary Decisions that make sense
LAFCo’s Purpose: Legislative

- Discourage urban sprawl
- Preserve agriculture and open space
- Encourage efficient public services
- Consider regional housing needs, adequate water and other issues
What’s Ahead

- Why are LAFCos Important? Legislative Mission, Scope and Composition
- LAFCo’s Functions and Procedures
- LAFCo’s Legal Foundation
- Small Group Exercises
LAFCo 101 Presenter

- David West, Public Member Commissioner, Imperial LAFCo
Commissioners’ Role

- Why LAFCOs matter?
- What decisions will you make?
- What are your responsibilities?
- Make decisions supported by statute, local policies, and sound and comprehensive analysis
Commissioners are Independent, too

- Exercise independent judgment on behalf of public, not appointing agency
- Based on CKH and local LAFCo policies - not interests of appointing agency alone
- “LAFCo Hat” involves a broader perspective representing “public as a whole”
Commissioners

- Commissioners make final decisions
- Decisions cannot be appealed to other administrative bodies
- LAFCo staff accountable to Commission and statutes
- Adopt local policies and procedures
LAFCo Balancing Act

LAFCo Decisions
Independent Judgment

CKH
CEQA
R&T
Principal Acts

Local Conditions
Local Policies
General Plans
Service Capabilities
Commissioner/Staff Engagement

- Seek out staff for information or questions before meetings
- Use related professional background and experience to assist staff
- Make yourself available to staff — communication is a two-way street
Commissioner

- David’s best advice or cautionary tale...
LAFCo 101 Presenter

- Carole Cooper, Assistant Executive Officer, Sonoma LAFCo
LAFCo Composition

Basic composition-Diverse!

- 2 County Supervisors
- 2 City Council members
- 1 Public member
- Alternate for each category
- 30 LAFCos also include 2 Special District members plus an alternate
- Some LAFCos have “special seats”
- Counties with no cities
**Recommendations (2000):**

- LAFCos to be neutral, independent, and provide balanced representation.
- Strengthen LAFCo’s powers to prevent urban sprawl and ensure orderly extensions of governmental services.
- Municipal Service Reviews to inform SOI updates.
- Strengthen policies to protect agricultural and open space.
LAFCo’s Regulatory Functions

- Administer *changes* of existing agencies (organizations) and creation of new ones
- Evaluate boundary changes based on various factors
- Terms and Conditions: Broad authority in light of record (GC 56885.5 & 56886)
- Monitor/Control extension of public services
- Prohibited from “directly” regulating land use
LAFCo’s Planning Functions

- Develop and update Spheres of Influence for cities and districts
- Prepare Municipal Service Reviews
- Work cooperatively on growth, preservation and service delivery issues (with all Stakeholders)
What decisions do you make?

- City Incorporation and Disincorporation
- District Formations and Dissolutions
- Annexations
- Detachments
- Consolidations, Mergers, Subsidiary District
- Service Extensions outside a District or City
- Spheres of Influence
- Municipal Service Reviews
- Activate Latent Powers
- Review Fire Contracts
Local Agencies Regulated by LAFCo

Include:
- Counties, cities, most special districts

Do NOT include:
- JPAs-(Must Submit Agreements to LAFCO)
- Community facilities or Mello-Roos districts
- School or college districts
- County boundaries
- Bridge and highway districts
- Improvement districts
- Zones of benefit
- Air pollution/quality districts
Normal LAFCO Process

Simple LAFCO Procedure

Adequate Initiation?  Yes  Property Tax Negotiation  Yes  LAFCO Staff Analysis  LAFCO Approval?  Yes  Majority Protest at Hearing?  No  Election Required?  No  COMPLETION

NO  Exceeds 60 Days  NO  NO  YES  Majority Vote  NO

TERMINATION
Each Commission is Independent

- Provides own office, equipment, personnel
- Appoints an Executive Officer
- Appoints a Legal Counsel
- Can contract for staff services
LAFCo is Funded Locally

- Must adopt a final budget by June 15
- Many LAFCOs approve a work plan too
- Budget process is outlined in CKH Act
- Minimum funding level is defined
- Net cost funded by the county, cities, and special districts *(usually in equal shares)*
- County Auditor calculates charges and processes the invoices
LAFCo is Funded Locally
(cont’d)

- Local funding formulas are allowed
- Processing fees help to offset expenses for proposals
- Adoption of fee schedule recommended
LAFCo 101 - (cont’d)

- Carole’s best advice or cautionary tale... ...
LAFCo 101

- Paula de Sousa Mills, Partner, Best, Best & Krieger
LAFCos’ Legal Role

- While powers are broad, LAFCo jurisdiction is limited to actions and powers granted by statute.
- Legislature has given LAFCos authority over boundary decisions and other government organization issues.
- LAFCo is the Legislature’s “watchdog” for local governments – one job is to monitor local government actions.
Subject to State Laws

- Cortese-Knox-Hertzberg Act
- Brown Act / Public Records Act
- CEQA
- Revenue & Taxation Code
- Political Reform Act / Other Conflict of Interest Laws
- Levine Act
- Principal Acts
LAFCos’ Key Legal Concerns

- Must act in accordance with state law and locally adopted policies
- Comply w/ CEQA as lead or responsible agency
- Must adopt *determinations* to support decision (*McBail*)
- Terms and Conditions
Limited Legal Challenge

- LAFCo decisions are *quasi-legislative*
- Not appealable except to the courts
- Short time to file suit
- Limited legal challenge to decisions
- Upheld as long as decision is not “arbitrary and capricious”
LAFCo Myths and Legends

- LAFCo has a “magic wand” that instantly solves boundary and service issues. **Nope!**
- LAFCo proceedings do not require deliberate review and analysis that require agency and public collaboration and/or support. **Nope!**
- LAFCo is an arm of the county, not the state. **Nope!**
- LAFCo’s sole mission is to dissolve agencies, particularly special districts. **Nope!**
- LAFCo’s role is always “reactive” and not “proactive.” **Nope!**
- Consult LAFCO at the last minute **Nope!**
Litigation

- Any decision can be litigated, so it is a good idea to do thorough reports and make good findings supported by record evidence as a routine practice.
- Still, the riskier projects tend to identify themselves.
- Talk to your counsel early and often about those.
- Make a good record.
What Claims are Most Common?
- CEQA
- Cortese-Knox-Hertzberg
- Civil Rights Claims
- Public Records Act
- Brown Act
- Political Reform Act and Other Conflict Laws
Avoiding Litigation

Thus, preventing litigation can be summarized as

- Avoid procedural error
- Ensure there is substantial evidence to support every required finding
  - Making all the findings and tying findings to evidence (“we find x because y”)
- Notice problems
- Allowing a fair hearing, avoiding bias and conflicts of interest
Litigation

- Most common legal challenges are brought as a writ of mandate or validation action

- The standard of review is more deferential under CKH and CEQA than on civil rights claims or the Political Reform Act or Brown Act
Avoiding Litigation

- Paula’s best advice or cautionary tale…
Questions and Answers
Small Group Exercises

- Break into small groups with the people at your table
- Appoint a facilitator & note taker
- You will have 5-6 minutes for each scenario
  - Scenario 1-
  - Scenario 2-
  - Scenario 3-
- Report out decisions and differences to the group