Promote orderly growth
Discourage urban sprawl
Preserve agriculture and open space
Encourage efficient, sustainable public services
LAFCo 101

Understanding & Applying the Basics

SR Jones, Executive Officer, Nevada LAFCo
Joe Serrano, Executive Officer, Santa Cruz LAFCo
Martha Poyatos, Executive Officer, San Mateo LAFCo

August 6, 2020
Evolution and Mission of LAFCos

- Martha Poyatos, Executive Officer
  San Mateo LAFCo
LAFCo’s Legislative Purpose

- Discourage urban sprawl
- Preserve agriculture and open space
- Encourage efficient public services
- Encourage orderly development
- Consider regional housing needs, adequate services and other issues
LAFCos’ Evolution

- 1963 - Knox-Nisbet Act – LAFCos created to regulate boundaries
- 1965 - District Reorganization Act (DRA)
- 1971 - Spheres of Influence – long range planning
- 1977 - Municipal Organization Act – MORGA
- 1983 - Deadline to adopt Spheres of Influence
- 1985 - Cortese-Knox-Local Government Reorganization Act (Recodified Knox-Nisbet, DRA & MORGA)
- 1993 - AB 1335 (Gotch) – Improved procedures, added outside service agreement review, made special district membership easier
- 2000-CKH! Broadened LAFCo Authority & Responsibility
Subject to State Laws

- Cortese-Knox-Hertzberg Act
- Brown Act / Public Records Act
- CEQA
- Revenue & Taxation Code
- Political Reform Act / Levine Act / Other Conflict of Interest Laws
- Principal Acts
SR Jones

- LAFCo composition
- LAFCo responsibility
- LAFCo planning functions
LAFCo Composition

Basic composition-Balance!

- 2 County Supervisors
- 2 City Council members
- 1 Public member
- Alternate for each category
- 31 LAFCos also include 2 Special District members plus an alternate
- Some LAFCos have “special seats”
- Counties with no cities
LAFCo 101

- Commissioners make final decisions
- Decisions cannot be appealed to other administrative bodies
- LAFCo staff accountable to Commission and statutes
- Adopt local policies and procedures
Local Agencies Regulated by LAFCo

- **Include:**
  - Cities, independent & dependent special districts

- **Do NOT include:**
  - 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
  - JPAs (however, must submit agreements)
  - Mutual Water Companies (however, must submit maps)
LAFCo Actions

- Annexations/Detachments
- City Incorporation and Disincorporation
- District Formations and Dissolutions
- Consolidations, Mergers, Subsidiary District
- Service Extensions outside a District or City (special rules for fire contracts)
- Activate Latent Powers and divest of powers
- Reorganization (one or more of the above)
- Spheres of Influence
- Municipal Service Reviews
LAFCos’ Planning Functions

- Prepare Municipal Service Reviews
- Develop and update Spheres of Influence for cities and districts
- Work cooperatively on growth, preservation and service delivery issues (with all stakeholders)
Statutory Requirements

- Municipal Service Review
- Sphere of Influence
- Boundary change decisions must be consistent with the spheres of influence of affected agencies
Municipal Service Review (Gov’t Code Section 56430)

- **Purpose:** develop information LAFCo can use when taking action on sphere plans

- **Requirements found in GC 56430:** service review of the municipal services provided in the county or other appropriate geographic area

- **Written determinations on seven mandated factors as well as those locally adopted**

- **Each LAFCo has discretion to determine the appropriate geographic area of study and the appropriate services for review**
Sphere of Influence  
(GC Section 56425)

A plan for the boundaries and governance designed to promote the logical and orderly development of areas within the sphere

- (1) The present and planned land uses in the area, including agricultural and open-space lands.

- (2) The present and probable need for public facilities and services in the area.

- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

- (5) For agencies that provide sewer, water, fire protection - Disadvantaged Unincorporated Communities
Typical Sphere Designations

- Consolidation/Dissolution/Zero
- Coterminous
- Expanded
- Reduced
- Reaffirmed
Nevada County Resource Conservation District
Boundaries and Coterminous Sphere of Influence

Nevada County LAFCo
Sphere of Influence Map
Resolution 20-03 May
21, 2020
Polling Questions
LAFCo regulatory functions

LAFCo process

LAFCo funding & transparency
LAFCo’s Regulatory Functions

- Administer and evaluate boundary changes of and reorganizations of existing agencies and creation of new ones based on codified 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 Process

- Pre-Application Steps
  - Meet with applicants
  - Petition or Resolution of Application?
  - Inhabited or Uninhabited?
  - Affected Agency (City or District)?
  - City-County consultation (for Sphere amendments and annexations)
  - Assist in preparation of an application package
LAFCo Process

Public Hearing Steps

- LAFCo receives application package
- Referrals to affected agencies for comment and tax exchange
- Review for completeness
- Consistency analysis
- Staff report with recommendations
- Public Notice
- Conduct public hearing
LAFCo Process

- Post-Hearing Steps

  If Commission approves application, then:
  - Reconsideration period
  - Conduct Protest hearing, if required
  - Satisfy any conditions of approval
  - File documents with County Recorder and State Board of Equalization, if required

If denied, one year waiting period unless waived
“Normal” 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  

YES

NO

Majority Vote

YES

NO
Statutory Application Documents

- Petition or Resolution of Application
- Certificate of Sufficiency (if initiated by petition)
- Plan for Providing Service
- General Plan Amendment; Zoning Designation (if city annexation)
- Map & Legal description
- Property Tax Exchange Agreement
- CEQA Determination
- Certificate of Filing
- Notice of Public Hearing
- LAFCO Resolution (with terms and conditions)
- Certificate of Completion (includes copy of resolution and M&L)
- State Board of Equalization Boundary Change Form
Environmental Review of LAFCo Decisions

- Many LAFCo actions are “projects” under CEQA
- Pre-zoning makes city lead agency
- LAFCo is often responsible agency
- Categorical exemptions tailored to LAFCo actions — Classes 19 (annexations of existing facilities) & 20 (changes of organization)
Each Commission is Independent

- Commission is sole authority over budget per Section 56381
- Sole authority over office, equipment, personnel
- Appoints an Executive Officer
- Appoints a Legal Counsel
- May contract for staff services
LAFCo is Funded Locally

- Budget process is outlined in CKH Act
- Must adopt a final budget by June 15
- 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)

- Many LAFCos approve a work plan
- Local funding formulas are allowed
- Processing fees help to offset expenses for proposals
- Adoption of fee schedule recommended
Independent Judgement of Commissioners

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

- LAFCos vary in approach (proactive vs. reactive)

Opportunities:
- Planning level (e.g., General Plan)
- LAFCo pre-application and application
- Project level (e.g., CEQA)
- Community issues
LAFCo Balancing Act

LAFCo Decisions Independent Judgment

CKH, CEQA, R&T, Principal Acts, etc.

Local Conditions, Local Policies, General Plans, etc.
Transparency

- Website
- Minutes
- Executive Officer’s Report
- Public Comments
- Policies and Procedures
- Budget
- Outreach
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.
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”
Avoiding Litigation

Thus, preventing litigation can be summarized as:

- Avoid procedural error
- Ensure there is substantial evidence in the record to support every required determination
  - Making all the determinations and tying them to evidence ("we determine x because y")
- Noticing problems – seek peer review
- Allowing a fair hearing, avoiding bias and conflicts of interest
New Normal

- Sphere of Influence updates and Municipal Service Reviews during & post pandemic
- Virtual Meetings and Public Engagement
- Disadvantaged Unincorporated Communities and Environmental Justice
- Viability of smaller local agencies
- Legislation circumventing LAFCo
LAFCos Today

- Strong State Association
- LAFCos are at the table with CSAC, League of Cities, CSDA and RCRC
- In the “new normal,” LAFCos have opportunity to assist in hazard mitigation and economic recovery
Professional education (Annual Conference, Staff Workshop, CALAFCO University)

Technical resources (research reports/white papers, contact directory, library, list serves, *The Sphere*, etc.)

Statewide coordination

Resource to Legislature and other organizations
Questions and Answers
COMING ATTRACTIONS

- **Navigating the basics and beyond for Clerks and Analysts** - August 6, 2020, 9:30 to 11:00 am

- **Being a LAFCo Commissioner - What does it really mean?** - August 21, 2020, 10:00 to 11:00 a.m.

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