



When Opinions Collide

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June 26, 2017

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Case Study A



Introduction

- In the 1980s, the Commission conditionally approved a problematic annexation.





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Introduction (cont'd)

- Among the conditions was a set of clauses that limited the amount of service that could be provided to the annexing territory only to a specified number of residential units.



Case Study A



Introduction (cont'd)

- As a result, this set of conditions appears to limit the ability of the applicant to develop the parcel beyond the amount of service authorized by the Commission.



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Before you say anything...

- The proposal had already been continued twice and it appeared it was headed for denial by LAFCO
- The audio recording of that meeting indicate the set of conditions was the result of an agreement reached by the affected parties (applicant, LAFCO, and the county).



Case Study A



- Shortly after that approval, the applicant contended that:
 - It had never agreed to accept those conditions; and
 - LAFCO's conditions were illegal in that they regulated land use.
- The applicant did not seek Commission reconsideration.
 - Legal cloud hung over annexation for two decades



Case Study A



- For its part, the annexing district said it was bound by the conditions of approval. It would not provide additional service to that parcel beyond what was specified in the conditions.





Case Study A



- In late 2007, the Commission directed LAFCO staff to reach a solution outside of a lawsuit.
- Staff proposal respected every party's legal position up to that point and provided an administrative remedy.





Case Study A



- Initially the annexing district and the applicant were suspicious and skeptical that the proposal would work.
- After several rounds of talks, they went from skeptical, to being open to the proposal to supportive.





Case Study A



- Unfortunately, the talks ended when the applicant and the annexing agency abruptly announced they would ignore the LAFCO conditions and proceed on their own.





Case Study A



Conflict:

- The Commission was split on how it wanted to proceed. Some endorsed staff's recommendation to vigorously defend the conditions in court. Others did not.
 - The Commission did not pursue a legal challenge and was never separately challenged in court.



Case Study A



Takeaways:

- 1) Staff and the Commission may not always agree on how to proceed;
- 2) The Commissioners themselves will not always agree;
- 3) When the stakes are high, the probability of disagreement will significantly increase;
 - In times of disagreement, inertia has momentum



Case Study A



Takeaways (cont'd):

- 4) In times of relative peace, it is important to lay the groundwork on how to resolve these types of disagreements in a constructive manner;
- 5) It's possible to keep confidential attorney-client privileged memos confidential;



Case Study A



- 6) Once a decision is made, the Commission as a whole - plus its staff - should act in furtherance of the action. This means
- No badmouthing colleagues or complaining about the decision
 - Ongoing work of LAFCO > Single decision



Case Study A



Questions?



Case Study B



- Despite long-shot odds, a maverick politician defeats the relatively popular incumbent of a high-profile office.
- From day 1, the maverick politician opts to “shake things up” at his home agency.





Case Study B



- Soon enough, the maverick takes his unMagical Misery Bus on tour when he joins LAFCO.





Case Study B



Conflict

- The maverick negatively impacts LAFCO operations when he
 - Causes the Commission to postpone and delay the EO's annual evaluation;
 - Gives individual directives to staff, sometimes bypassing the EO;





Case Study B



Conflict (cont'd)

- The maverick negatively impacts LAFCO operations when he
 - Disrupts the Commission's deliberations on sensitive contract negotiations;
 - Causes delays to the approval of these contracts and of LAFCO's budget;





Case Study B



Conflict (cont'd)

- The maverick negatively impacts LAFCO operations when he
 - Demands that the EO meet with him weekly to give “status updates”;
 - Makes it no secret he aims to get the EO fired or cause his resignation.





Case Study B



Takeaways:

- 1) The role of Commission counsel can be unclear to both the Commissioner and the staff in situations when there are conflicts between the two;
- 2) Elections are like a box of chocolates, and every election holds a special future surprise for staff;



Case Study B



Takeaways (cont'd):

- 3) LAFCOs should have strong HR/administrative policies in place to minimize the impact disruptive agents can have of its operations and a solid working relationship between the Commission, staff and counsel;
 - It doesn't hurt to have good relationships with the staffs and elected officials at other agencies.



Case Study B



Takeaways (cont'd):

- 4) Every appointed official has an expiration date, it's just that (s)he doesn't know when it is;
- 5) In the face of such ambiguity, appointed officials should adopt a "This too shall pass" philosophy;
 - Ignore the disruptions and concentrate of providing good service



Case Study B



Takeaways (cont'd):

6) Be willing to be fired for a good cause

- Don't let the disrupter affect how you do your job.
- Don't be afraid to tell your boss(es) things they don't want to hear
- Even if the disrupter has tuned you out, there are still commissioners who depend on you to formulate options and help frame issues



Case Study B



Questions?