



# CALAFCO University

## **Forming a Community Services District (CSD): Not Your Ordinary Formation**

**September 1, 2021**



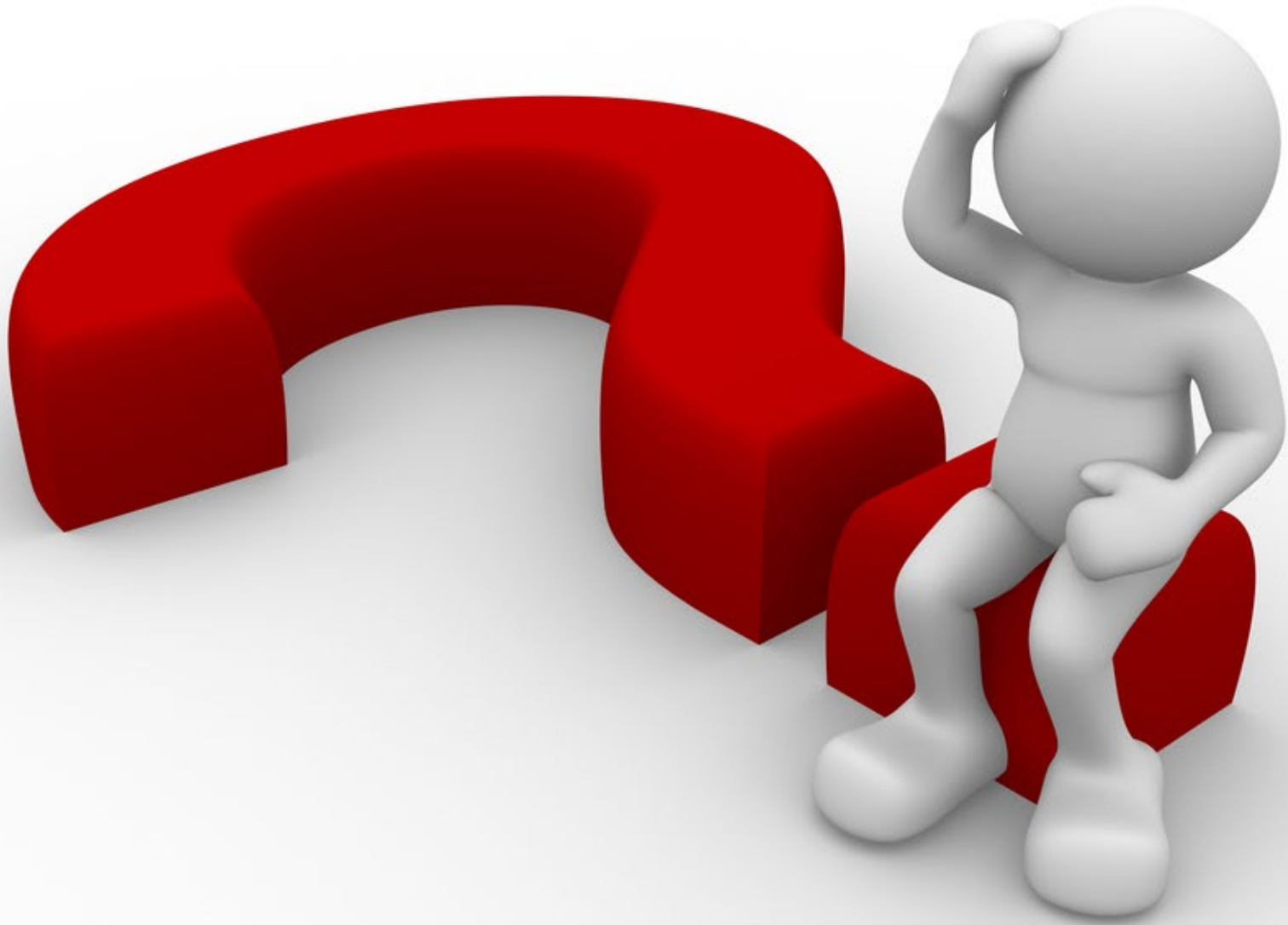


# Today's Panelists

**Paula de Sousa**  
**Partner, Best Best & Krieger**

**Sam Martinez**  
**Executive Officer, San Bernardino LAFCo**







# What is a Community Services District (CSD)

- ❖ A Community Services District (CSD) is a special district with broad powers.
  - ◆ Formed under the Community Services District Law, Government Code section 61000 et seq.
    - Originally enacted in 1951,
    - Reenacted in 1955, and
    - Rewritten and updated in 2005
      - One of a few special district laws updated “recently.”





# What is a Community Services District (CSD)

- ❖ Legislative Findings and Purpose:
  - ◆ California communities are diverse in terms of population, geography, natural resources, history, and economy.
  - ◆ There is a need for a local governance framework to provide public facilities and services to California's diverse communities, that are adaptable to local conditions, circumstances and resources.





# What is a Community Services District (CSD)

- ❖ Legislative Findings and Purpose (cont.):
  - ◆ For some communities a CSD may be:
    - A permanent form of governance.
    - A way to combine two or more special districts that serve overlapping or adjacent territory into a multifunction special district.
    - A form of governance that can serve as an alternative to the incorporation of a new city.
    - A transitional form of governance as the community approaches cityhood.





# What is a Community Services District (CSD)

## ❖ Legislative Intent:

- ◆ To continue authority for a class of limited-purpose special districts to provide a wide variety of public facilities and services.
- ◆ To encourage LAFCOs to use MSR, spheres of influence, and boundary powers, where feasible and appropriate, to combine special districts that serve overlapping or adjacent territory into multifunction CSDs.
- ◆ That residents, property owners, and public officials use the CSD Law Law to meet the diversity of the local conditions, circumstances, and resources.





# What Powers Can a CSD Exercise

## ❖ MANY—All set out in Section 61100:

1. Supply water in the same manner as a municipal water district.
2. Collect, treat, or dispose of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district.
3. Collect, transfer, and dispose of solid waste, and provide solid waste handling services, including, but not limited to, source reduction, recycling, and composting activities.
4. Provide fire protection services, rescue services, hazardous material emergency response services, and ambulance services in the same manner as a fire protection district.







# What Powers Can a CSD Exercise

- ❖ **MANY—All set out in Section 61100 (cont.):**
  5. Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district.
  6. Organize, promote, conduct, and advertise programs of community recreation, in the same manner as a recreation and park district.
  7. Acquire, construct, improve, maintain, and operate street lighting and landscaping on public property, public rights-of-way, and public easements.
  8. Provide for the surveillance, prevention, abatement, and control of vectors and vectorborne diseases in the same manner as a mosquito abatement and vector control district.





# What Powers Can a CSD Exercise

- ❖ **MANY—All set out in Section 61100 (cont.):**
  9. Provide police protection and law enforcement services by establishing and operating a police department that employs peace officers pursuant to Penal Code section 830 et seq.
  10. Provide security services, including, but not limited to, burglar and fire alarm services, to protect lives and property.
  11. Provide library services, in the same manner as a library district formed pursuant to either Education Code section 19400 et seq. or Education Code section 19600 et seq.
  12. Acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works, subject to limitations and further authority under Sections 61103 and 61104.





# What Powers Can a CSD Exercise

## ❖ MANY—All set out in Section 61100 (cont.):

13. Convert existing overhead electric and communications facilities, with the consent of the public agency or public utility that owns the facilities, to underground locations pursuant to Streets and Highways Code section 5896.1 et seq.
14. Provide emergency medical services pursuant to the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act.
15. Provide and maintain public airports and landing places for aerial traffic, in the same manner as an airport district formed pursuant to the California Airport District Act.
16. Provide transportation services.





# What Powers Can a CSD Exercise

- ❖ MANY—All set out in Section 61100 (cont.):
  17. Abate graffiti.
  18. Plan, design, construct, improve, maintain, and operate flood protection facilities, subject to limitations.
  19. Acquire, construct, improve, maintain, and operate community facilities, including, but not limited to, community centers, libraries, theaters, museums, cultural facilities, and child care facilities.
  20. Abate weeds and rubbish pursuant to Health and Safety Code section 14875 et seq.





# What Powers Can a CSD Exercise

- ❖ **MANY—All set out in Section 61100 (cont.):**
  21. Acquire, construct, improve, maintain, and operate hydroelectric power generating facilities and transmission lines, consistent with the district's water supply and wastewater operations, for district purposes or sell to a public utility or another public agency that generates, uses, or sells electrical power, subject to limitations.
    - ❖ Can also provide electric power if authorized by LAFCO under certain circumstances.
  22. Acquire, construct, improve, maintain, and operate television translator facilities.
  23. Remove snow from public streets, roads, easements, and rights-of-way, subject to limitations.
  24. Provide animal control services pursuant to Section 30501 of the Food and Agricultural Code, subject to limitations.





# What Powers Can a CSD Exercise

## ❖ MANY—All set out in Section 61100 (cont.):

25. Control, abate, and eradicate pests, in the same manner as a pest abatement district, subject to limitations.
26. Construct, maintain, and operate mailboxes on a district's property or rights-of-way.
27. Provide mail delivery service under contract to the United States Postal Service.
28. Own, operate, improve, and maintain cemeteries and provide interment services, in the same manner as a public cemetery district, under the Public Cemetery District Law.





# What Powers Can a CSD Exercise

## ❖ MANY—All set out in Section 61100 (cont.):

29. Finance the operations of area planning commissions formed pursuant to Government Code section 65101.
30. Finance the operations of municipal advisory councils formed pursuant to Government Code section 31010.
31. Acquire, own, improve, maintain, and operate land within or without the district for habitat mitigation or other environmental protection purposes to mitigate the effects of district projects.
32. And last but not least: Construct, own, improve, maintain, and operate broadband facilities and provide broadband services, subject to conditions.





# What Powers Can a CSD Exercise

## ❖ MANY—All set out in Section 61100 (cont.):

CSDs may provide any of the above services outside of their boundaries subject to Government Code section 56133.







# What Powers Can a CSD Exercise

- ❖ Certain specified CSDs have additional powers. For example:
  - ◆ The Los Osos Community Services District may borrow money from public/private lenders and lend those funds to property owners within the district to pay for decommissioning septic systems/constructing lateral connections on private property to facilitate connection to the district's wastewater treatment system, subject to conditions.
  - ◆ The Heritage Ranch Community Services District may acquire, construct, improve, maintain, and operate petroleum storage tanks and related facilities for its own use, and sell those petroleum products to the district's property owners, residents, and visitors, subject to conditions.





# What Powers Can a CSD Exercise

- ❖ Certain specified CSDs have additional powers. For example (cont.):
  - ◆ And while it is true that CSDs do not have land authority, certain CSDs are authorized to:
    - Continue to enforce covenants, conditions, and restrictions prior to January 1, 2006, pursuant to former Section 61601.7 and former Section 61601.10.
      - Cameron Park CSD, the El Dorado Hills CSD, the Golden Hills CSD, the Mountain House CSD, the Rancho Murieta CSD, the Salton CSD, the Stallion Springs CSD, and the Tenaja Meadows CSD





# What Powers Can a CSD Exercise

- ❖ Certain specified CSDs have additional powers. For example (cont.):
  - ◆ And while it is true that CSDs do not have land use authority, certain CSDs are authorized to:
    - Enforce all or part of the covenants, conditions, and restrictions for a tract, and assume the duties of the architectural control committee, to the extent that a tract's covenants, conditions, and restrictions authorize an architectural control committee.
      - Bel Marin Keys Community Services District





# Changing the Powers a CSD Can Exercise

- ❖ A CSD can activate a power it doesn't already provide by applying to LAFCO pursuant to Government Code section 56824.10 et seq.
  - ◆ If LAFCO approves the activation of the power or powers, the CSD Board of Directors “may, by ordinance, order the exercise of that power.”
    - However, LAFCO is not permitted to approve activation if it determines that another local agency already provides substantially similar services or facilities to the territory where the district proposes to exercise that latent power.





# Changing the Powers a CSD Can Exercise

- ❖ A CSD can divest itself of a power in one of two ways:
  - ◆ If divestiture of the power would require another public agency to provide a new or higher level of services or facilities, the CSD must seek LAFCO approval.
    - If LAFCO approves the divestiture, the board of directors may, by ordinance, divest itself of that power.
  - ◆ If divestiture of the power would NOT require another public agency to provide a new or higher level of services or facilities, the board of directors may, by ordinance, divest itself of that power.
- ❖ Possible conflict with CKH.





# Formation: How is a CSD Formation Initiated

- ❖ Two methods for formation:
  - ◆ By Petition signed by not less than 25 percent of the registered voters residing in the territory of the proposed CSD, as determined by LAFCO.
  - ◆ By Resolution of Application by the legislative body of any county, city, or special district that contains any of the territory of the proposed CSD.





# Formation: How is a CSD Formation Initiated

## ❖ Contents of Petition/ Resolution:

- ◆ State which of the services the proposed CSD will provide when formed.
- ◆ Set forth the proposed methods for financing the services (e.g., special taxes, benefit assessments, and fees).
- ◆ Propose a name for the district.
- ◆ State the method of selecting the initial board of directors.





# Formation: How is a CSD Formation Initiated

## ❖ Contents of Petition/ Resolution:

- ◆ Three choices for method of selecting the initial board of directors:
  - At large, where the election of directors are all elected by the voters of the entire district.
  - By divisions, directors who are residents of the division from which they are elected only by voters of the division
  - From divisions, directors who are residents of the division from which they are elected by the voters of the entire district.
- ◆ SB 96: What about CSDs with absentee landowners/ residents registered to vote elsewhere?





# Formation: What Territory Can be Included in a CSD

## ❖ Territory can be:

- ◆ Unincorporated
- ◆ Incorporated
- ◆ Contiguous
- ◆ Noncontiguous
- ◆ Located in one or more counties





# Questions For Paula





# Forming a Community Services District

## Navigating the Formation Process of a Community Services District (CSD) and Avoiding Some of the Pitfalls





# Forming a Community Services District

What are some of the main reasons why one would want to form a CSD (instead of another kind of special district)?





# Sam's 10 Things to Remember when Forming a CSD

1. Read CSD Law!!!





# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
- ❖ **Commission Action and Conditions**
- ❖ **Completion**





# Forming a Community Services District

## ❖ Initiation





# Forming a Community Services District

## ❖ Initiation

- ◆ By Petition
- ◆ By adoption of a resolution of application by an affected agency



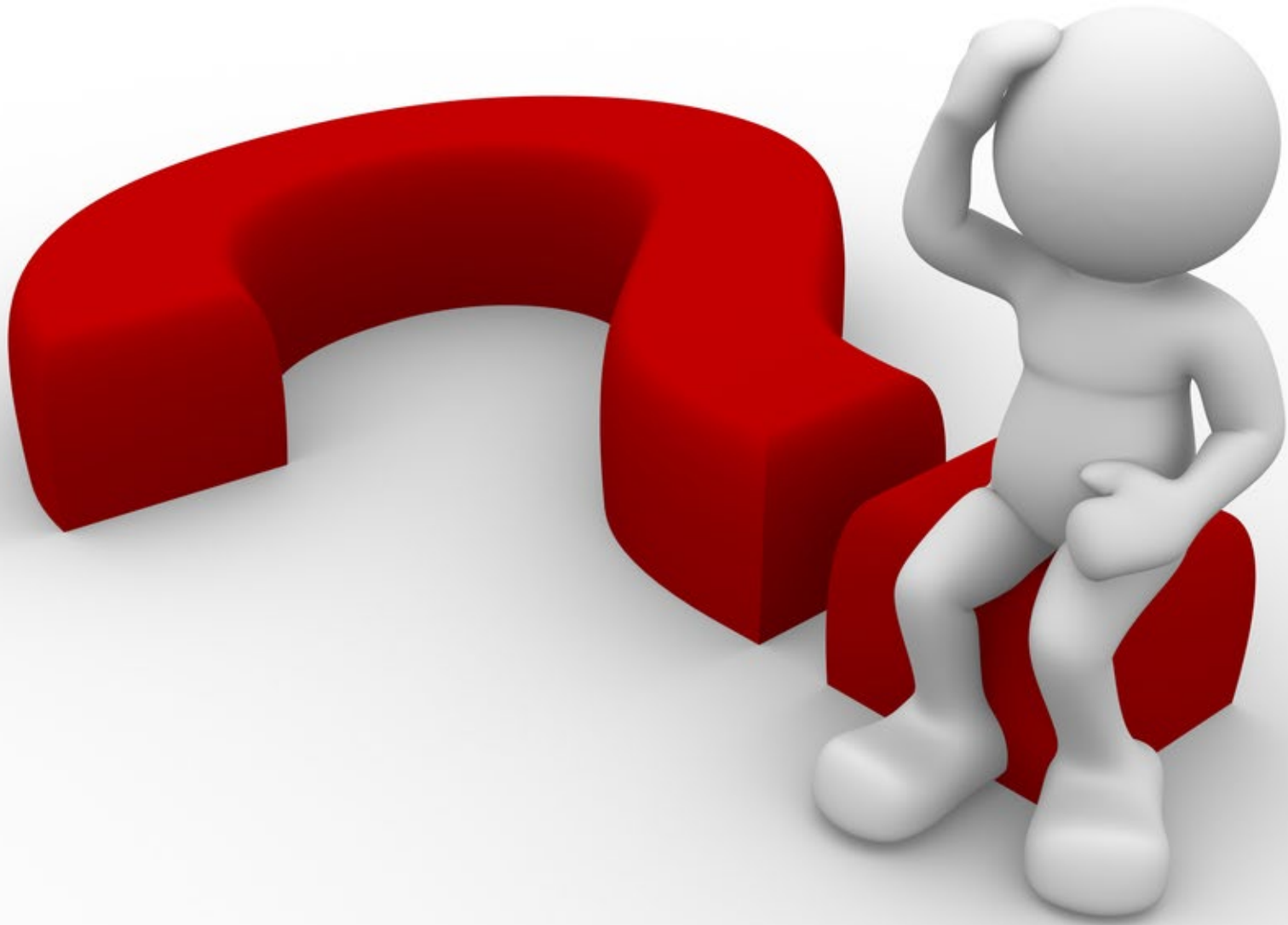




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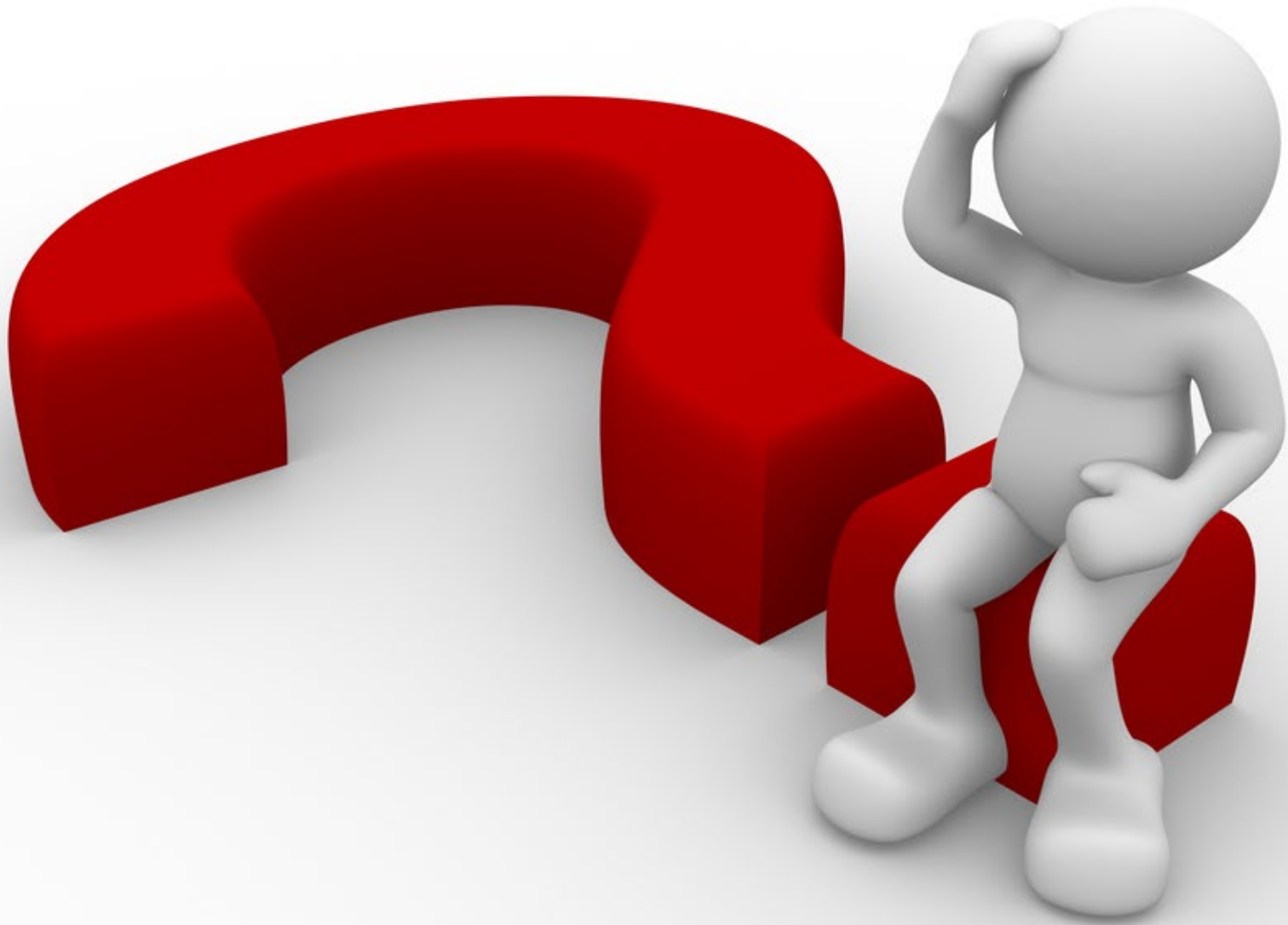


# Forming a Community Services District

## ❖ Initiation

- ◆ By Petition
- ◆ By adoption of a resolution of application by an affected agency







# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
  - ◆ **Boundary Determinations**
  - ◆ **Service Considerations**
  - ◆ **Financial Effects**
  - ◆ **Environmental Review**





# Forming a Community Services District

## ❖ Initiation

## ❖ Proposal Processing

### ◆ Election dates and timeline

- Know this ASAP; nice to know this even prior to initiation.
- Know the cost for ballot measure including election of a five member board of directors.





# Forming a Community Services District

## ❖ Initiation

## ❖ Proposal Processing

- ◆ Election dates and timeline

- ◆ **Boundary Determinations**

  - CSD Formation Boundary/Boundaries

  - Detachment

  - Formation of Zone

  - Sphere of Influence Establishment







# Forming a Community Services District

## ❖ Initiation

## ❖ Proposal Processing

- ◆ Election dates and timeline
- ◆ **Boundary Determinations**
- ◆ **Service Considerations**

Service(s) provided – What? Where?

Agreements/MOUs





# Forming a Community Services District

## ❖ Initiation

## ❖ Proposal Processing

- ◆ Election dates and timeline

- ◆ **Boundary Determinations**

- ◆ **Service Considerations**

- ◆ **Financial Effects**

  - GC Sec. 56810 – property tax exchange

  - GC Sec. 56811 – appropriation limit

  - GASB 68

  - Feasibility - always budget conservatively

  - Feasibility - other expenses to include

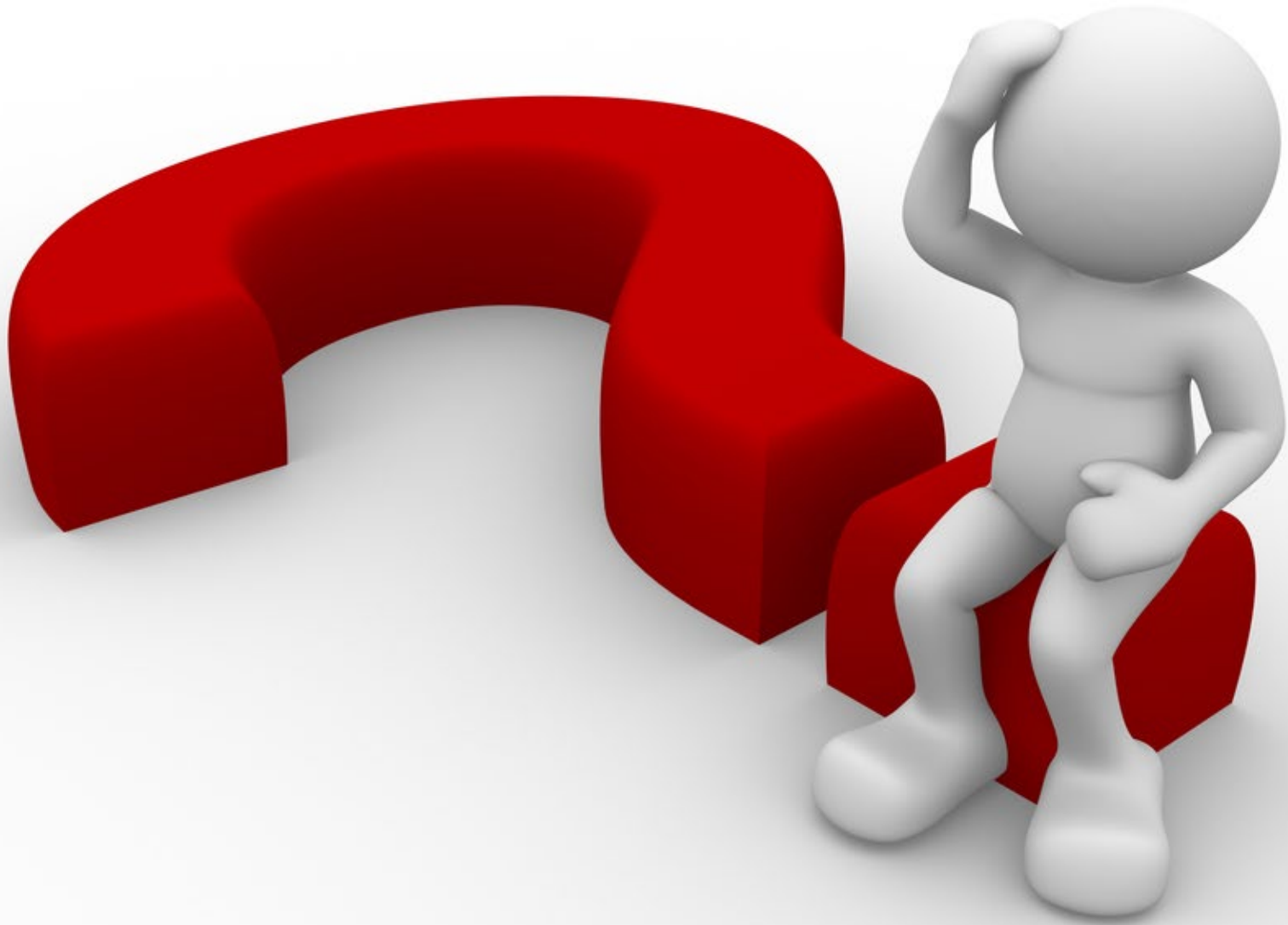




# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
  - ◆ Election dates and timeline
  - ◆ **Boundary Determinations**
  - ◆ **Service Considerations**
  - ◆ **Financial Effects**
  - ◆ **Environmental Review**







# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
- ❖ **Commission Action and Conditions**
  - ◆ Determination for Environmental Review





# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
- ❖ **Commission Action and Conditions**
  - ◆ Determination for Environmental Review
  - ◆ CSD Formation Determination





# Sam's 10 Things to Remember when Forming a CSD

1. Read CSD Law!!!





# Forming a Community Services District

**GC Sec. 61014.** (a)...

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. In approving the proposal, the commission shall provide that, if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.

(d)...







# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
- ❖ **Commission Action and Conditions**
  - ◆ Determination for Environmental Review
  - ◆ CSD Formation Determination
  - ◆ Conditions:
    - Authorized functions/services
    - Provisional appropriation limit
    - Any other appropriate conditions under GC Sec. 56886  
(Terms and Conditions)





# Forming a Community Services District

- ❖ **Initiation**
- ❖ **Proposal Processing**
- ❖ **Commission Action and Conditions**
- ❖ **Completion**
  - ◆ 30-day Reconsideration Period, Protest Proceedings, and Election (GC Sec. 61014[e][2])
  - ◆ Call for Election (GC Sec. 57000[d]&[e])
  - ◆ Impartial Analysis (GC Sec. 57144)
  - ◆ GC Sec. 57145
  - ◆ Reach out to CSDA (resource for the new CSD)





# Sam's ~~10~~ Things ~~X~~ to Remember when Forming a CSD

## 1. Read CSD Law!!!





# Questions For Sam





# Questions & Answers for Today





# Contact Information

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