

Colusa Local Agency Formation Commission

Regular Meeting Agenda

Board of Supervisors Chambers

**546 Jay Street
Colusa, CA.**

Thursday – January 6, 2022

3:00 PM

**THIS MEETING IS A PHYSICAL MEETING AT THE BOARD OF SUPERVISOR'S
ROOM AT THE COLUSA COUNTY COURTHOUSE**

The zoom link below is provided to increase PUBLIC access.

**It is anticipated all LAFCo Commissioners will physically
attend the meeting**

Topic: Colusa LAFCo

Time: Jan 6, 2022 03:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/86577936912?pwd=RkFOeWo5VUZ2NWQySjFudVlraEJ2Zz09>

Meeting ID: 865 7793 6912

Passcode: 097830

One tap mobile

+16699006833,,86577936912#,,,,*097830# US (San Jose)

+12532158782,,86577936912#,,,,*097830# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

Meeting ID: 865 7793 6912

Passcode: 097830

Find your local number: <https://us02web.zoom.us/j/86577936912>

1. Call to Order/Roll Call

Commissioners

Sajit Singh, (Williams, City)

Denise Carter (Chair, County)

Merced Corona (Vice-Chair County)

Brandon Ash (Public)

Greg Ponciano (Colusa, City)

Alternates

Kent Boes (County Alternate)

Tom Reische (City Alternate)

John Loudon, (Public Member Alternate)

Staff

John Benoit, Executive Officer

P. Scott Browne, Legal Counsel

Lora Cecon Clerk

2. Consider Minutes from September 2 and November 4, 2021

- a. *Consider approving the September 2nd and November 4th , 2021 LAFCo minutes*

3. Public Comment

This is the time for the public to address the Commission on any matter not on the agenda. Testimony related to an item on the agenda should be presented at the time that item is considered

4. Consent Agenda

- a. *Payment of claims for the months of November and December 2021*
- b. *Consider Resolution 2022-0001 regarding remote teleconferencing meetings.*

5. Correspondence:

6. Discussion regarding LAFCo's LAFCo's Disadvantaged Community Policy and Future Colusa City Annexations.

- a) *Review and discuss LAFCo's Disadvantaged Community Policy in light of future Colusa City Annexations*

7. Policies, Standards and Procedures Amendment regarding Municipal Service Review followup

- a) *Receive Executive Officer's Report*
- b) *First reading regarding a ServiceReview follow up policy for Colusa LAFCo*

8. LAFCo 101 Overview of LAFCo

9. Executive Officer's Report:

- a) *Cemetery District MSR and SOI*
- b) *New Colusa LAFCo phone # (530) 619-5128*

10. Commissioner Reports - Discussion

This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters

11. Next Colusa LAFCo meeting: February 3, 2022 (as needed)

Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1

Pursuant to Government Code Section 54954.2, Commission members may make a brief announcement or report on activities. Commission members may also provide a reference to staff or other resources for factual information, request staff to report back to the Commission at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).
- The total amount of time allotted for receiving public comment may be limited to 15 minutes.
- Any individual's testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received.

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to 5 minutes. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda area available for review for public inspection in the Colusa County Clerk's office located at the Colusa County Courthouse 546 Jay Street, Colusa CA. [such documents are also available on the Colusa LAFCO website as noted below to the extent practicable and subject to staff's ability to post the documents prior to the meeting].

Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting. The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Pursuant to Government Code Sections 56100.1, 56300(b), 56700.1, and 81000 et seq., and Colusa LAFCO's Policies and Procedures for the Disclosure of Contributions and Expenditures in Support of and Opposition to Proposals, any person or combination of persons who directly or indirectly contribute \$1000 or more or expend \$1000 or more in support of or opposition to a change of organization or reorganization that has been submitted to Colusa LAFCO must comply with the disclosure requirements approved by Colusa LAFCO. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained at the Colusa County Elections Department 546 Jay Street, Colusa, CA 95932. (530) 458-0500

A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding.

Contact LAFCO Staff LAFCO staff may be contacted at (530) 619-5128 or by mail at Colusa LAFCO P.O. Box 2694, Granite Bay Ca 95746 or by email at lafco@countyofcolusa.com or j.benoit4@icloud.com

Webpage Reports, agendas, minutes and general information about LAFCO are available on the LAFCO Webpage at www.colusalafco.org

LOCAL AGENCY FORMATION COMMISSION
COLUSA COUNTY
MINUTES OF MEETING
November 4, 2021

PRESENT:

MERCED CORONA, County Member Alt.
DENISE CARTER, County Member
GREG PONCIANO, City Member
BRANDON ASH, Public Member

ALSO PRESENT:

JOHN BENOIT, Ex. Officer
SCOTT BROWNE, Legal Counsel
LORA CECCON, Clerk
JOHN LOUDON, Public Alt.

1. Call to Order/Roll Call

The meeting was called to order at 3:07 p.m. There was a quorum present.

2. Consider Minutes from September 2, 2021

The September minutes will be presented at the next Lafco meeting.

3. Public Comment - None

4. Consent Agenda

On motion of B. Ash, second by G. Ponciano, the commission approved claims for the months of September and October 2021; motion carried by roll call vote.

5. Correspondence: None

6. Cheney-Wilson Reorganization including an annexation to the city of Colusa and a detachment from the Sacramento River Fire Protection District.

John presented a review of his report on the Cheney-Wilson reorganization. The project area originally involved approximately 12.83 acres of land located in the unincorporated area of the Sphere of Influence of the City of Colusa. The reorganization has been expanded to 26.5 acres, more or less. All parties have agreed on the tax-sharing agreement. We are waiting for resolution signatures.

Discussion was held and clarification of the map and boundaries was provided.

G. Ponciano moved to approve Resolution 2021-0008 approving the Cheney-Wilson Reorganization subject to terms and conditions, second by M. Corona; motion carried by roll call vote.

7. Discussion and Direction regarding new teleconferencing Legislation – AB 361 and possible adoption of Resolution 2021-0009 authorizing teleconference meetings

John stated that this does not have to be adopted today because no commissioner is teleconferencing for today's meeting.

S. Browne advised the commission that this will need to be re-adopted every 30 days to establish an emergency still exists. A resolution will need to be on the consent calendar and approved so that we can say it was approved every 30 days.

D. Carter asked if this was needed since the commissioners are local. S. Browne responded yes, if the commission wants to accept zoom testimony from someone outside of the meeting site. If we adopt, we are preserving our waiver in case there is an issue. Scott stated that this does not require Lafco to take public input but allows you to.

Some discussion followed.

John feels that there should always to a zoom link available. This should be adopted at every meeting so that it is in effect until the next meeting.

8. Executive Officer's Report

- a) **Cemetery District MSR and SOI – has been years since an MSR and SOI were completed. The districts are cooperating.**
- b) **New Colusa LAFCo phone # (530) 619-5128 – posted on website; can text**

9. Commissioner Reports – Discussion

None

10. Next Colusa LAFCo meeting: December 2, 2021

Meeting adjourned 3:46 p.m.

LOCAL AGENCY FORMATION COMMISSION
COLUSA COUNTY
MINUTES OF MEETING
September 2, 2021

PRESENT:

MERCED CORONA, County Member Alt.
DENISE CARTER, County Member
SAJIT SINGH, Chair, City Member
BRANDON ASH, Public Member
GREG PONCIANO, City Member

ALSO PRESENT:

JOHN BENOIT, Ex. Officer
SCOTT BROWNE, Legal Counsel
LORA CECCON, Clerk

1. Call to Order/Roll Call

The meeting was called to order at 3:01 p.m. There was a quorum present.

2. Consider Minutes from August 5, 2021

On motion of S. Singh, second by B. Ash, the commission approved minutes of the August 5, 2021, meeting; motion passed by roll call vote.

3. Public Comment - None

4. Consent Agenda

On motion of B. Ash, second by S. Singh, the commission approved claims for the month of August 2021; motion carried by roll call vote.

5. Correspondence:

John stated that the Calafco Board voted to cancel the annual conference; we will receive a letter regarding the cancellation.

6. Policies, Standards and Procedures Amendment regarding indemnification and expiration of applications

A memo is included in today's agenda packet regarding the proposed policy amendments. S. Browne stated that the first is the ability to ask for voluntary indemnification. Some will agree, others may wait until they get sued and then sign. He recommends adopting this policy.

The second is to make sure we have a policy for stale applications. It is easy to forget that an application was submitted three years ago. He recommends approval of this policy, also.

G. Ponciano moved to approve Resolution 2021-0007 adding a policy regarding Indemnification Agreements and Expiration of LAFCo Proceedings, second by M. Corona; motion carried by roll call voted.

7. Workshop: Calafco White Paper: “The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Mergers

John stated that he will be brief. There is a lot of content and technical stuff that he will not look at until Lafco actually has a consolidation, merger, dissolution, or subsidiary formation. If a district is interested in consolidation, it should be homegrown. He discourages Lafco initiated consolidations. John provided a summary of the white paper including examples. S. Browne provided information on consolidations vs. dissolutions.

John advised the commission that if there is a district interested in consolidation, Lafco provides them with options and lets the district decide. He stated that if this comes up in the future, it will be explained in the staff report.

8. Executive Officer’s Report

a) Cheney Reorg: City of Colusa and Sacramento River Fire – John is hoping to have for the November meeting; needs a few things from the city. He had a productive meeting with the city, and things are moving forward. The resolution is getting closer.

b) New Colusa LAFCo phone # (530) 619-5128 – posted on website; can text

c) Calafco Conference October 6-8, 2021 – Cancelled by board

9. Commissioner Reports – Discussion

None

10. Next Colusa LAFCo meeting: November 4, 2021

Meeting adjourned 3:27 p.m.

4a

Colusa Local Agency Formation Commission

CLAIMS

November and December 2021

Authorize payment of the following claims:

FY 2021-2022 Expenses

Claims for November and December 2021:

Dec 1, 2021	Staff Svcs and Exp. –Nov 2021	\$ 5,897.12
10.16-21-11.15.21	Legal Svcs. P. Scott Browne	\$ 2,000.00
Jan 1, 2022	Staff Svcs December 2021	\$ 5,487.56
11.16.21-12.15.21	Legal Svcs. P. Scott Browne	\$ 2,000.00
TOTAL:		\$ 15,384.56

Revenue Cheney Project Expenses \$ 4,839.68

DATED: Jan 6, 2022

APPROVED: Jan 6, 2022

**Denise Carter , Chair or Merced Corona , Vice-Chair
Colusa Local Agency Formation Commission**

Attest:

**John Benoit
Executive Officer**

Expenditure Category	Executive Off.	Clerical Supp	Workers Com	Lgl Services	Insurance	Office Suppl	Postage	Copies	Memberships
City Coding	7338	7320	7016	7321	7315	7339	7322	7322	7319
	\$48,000.00	\$3,657.00	\$50.00	\$24,000.00	\$2,497.22	\$375.00	\$500.00	\$750.00	\$1,808.00
SDRMA Insurance 21-22					-\$2,573.06				
CALAFCo Dues 21-22									-\$1,308.00
Staff Svcs July 2021	-\$4,000.00					-\$24.95			
Frontier phone forwarding	\$1.02								
Browne ending 7.15.21 #940				-\$2,000.00					
Calafco Conf. Regist 2021 Corona and Ponciano									
Staff Svcs August 2021	-\$4,000.00	-\$175.00						-\$25.00	
Browne ending 8.15.2021				-\$2,000.00					
Frontier phone July 7, 2021									
Staff Svcs September 2021	-\$4,000.00	-\$175.00						-\$10.00	
Browne ending 9.15.21				-\$2,000.00					
Staff Svcs October 2021	-\$4,000.00							-\$10.00	
Browne ending 10.15.2021				-\$2,000.00					
2022 CSDA Membership Renewal									-\$500.00
Reimbursement from Front Phone									
Browne ending 11.15.21				-\$2,000.00					
Staff Svcs Nov 2021	-\$4,000.00	-\$175.00					-\$1.80	-\$50.00	
Staff Svcs December 2021	-\$4,000.00						-\$2.56	-\$10.00	
Browne ending 12.15.21				-\$2,000.00					
REVENUE Cheney Annex									

Total Expended in FY 18-19	-\$23,998.98	-\$525.00	\$0.00	-\$12,000.00	-\$2,573.06	-\$24.95	-\$4.36	-\$105.00	-\$1,808.00
Total Remaining in FY 18-19	\$24,001.02	\$3,132.00	\$50.00	\$12,000.00	-\$75.84	\$350.05	\$495.64	\$645.00	\$0.00

RESOLUTION NO. 2022-0001

A RESOLUTION OF THE COLUSA LAFCO OF THE AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE COMMISSION PURSUANT TO GOVERNMENT CODE SECTION 54953(e)

WHEREAS, Government Code section 54953(e), as amended by Assembly Bill No. 361, allows legislative bodies to hold open meetings by teleconference without reference to otherwise applicable requirements in Government Code section 54953(b)(3), so long as the legislative body complies with certain requirements, there exists a declared state of emergency, and one of the following circumstances is met:

1. State or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body is holding the meeting for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body has determined, by majority vote, pursuant to option 2, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, the Governor of California proclaimed a state of emergency pursuant to Government Code section 8625 on March 4, 2020; and

WHEREAS, the COLUSA LAFCO desires to hold its public meetings by teleconference consistent with Government Code section 54953(e).

NOW, THEREFORE, THE COLUSA LAFCO DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Conditions are Met. The COLUSA LAFCO hereby finds and declares the following, as required by Government Code section 54953(e)(3):

1. The Governor of California proclaimed a state of emergency on March 4, 2020, pursuant to Government Code section 8625, which remains in effect.
2. The reasons for adopting this resolution are one or more of the following:
 - a. State or local officials have imposed or recommended measures to promote social distancing.

- b. The legislative body is holding the meeting for the purpose of determining whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- c. The legislative body has determined that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

PASSED AND ADOPTED by the Colusa LAFCo, this 6th day of January 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Denise Carter, Chair

Colusa Local Agency Formation Commission

ATTEST:

John Benoit, Executive Officer

COLUSA LOCAL AGENCY FORMATION COMMISSION,

2.19 Disadvantaged Unincorporated Communities

The Commission will identify Disadvantaged Unincorporated Communities, as defined below, for the purpose of:

1. Municipal Service Reviews. Water, Wastewater, and Fire Protection Municipal Service Reviews will discuss and identify opportunities for the provision of those services to Disadvantaged Unincorporated Communities located within or contiguous to the Sphere of Influence of an agency.
2. City Annexations. Disadvantaged Unincorporated Communities that are located contiguous to areas proposed for annexation to a city shall normally be included in the annexation or reorganization proposal or be separately proposed for annexation, unless the Commission has determined that the disadvantaged community would not be benefited by annexation, or if at least 50% the registered voters have indicated opposition to annexation.
3. Definition of Disadvantaged Unincorporated Community. A Disadvantaged Unincorporated Community is defined as a developed area that has been identified as such by LAFCo, the County or applicable city, or one that meets all the following standards:
 - a) Substantially developed with primarily residential uses
 - b) Contains at least 25 parcels in close proximity to each other that do not exceed 1.5 acres in size
 - c) Does not have reliable public water, sewer or structural fire protection service available
 - d) Contains at least 12 registered voters
 - e) Has a median household income level of less than 80% of the statewide median household income

Request for Determination. In addition to those Disadvantaged Unincorporated Communities identified by LAFCo or other agencies, residents or property owners may request that LAFCo determine whether a specific area meets the criteria listed in Item 3, to be treated as a Disadvantaged Unincorporated Community. Such request must be submitted by at least twelve registered voters of the area. The review shall be conducted by LAFCo staff and shall, if appropriate, be submitted for consideration and approval by the Commission.

Municipal Service Review (MSR) Follow-up Policy

3.3 (e) Municipal Service Review (MSR) Follow up

Upon adoption of a service review (MSR) LAFCo staff shall initiate a follow-up regarding the adopted Service Review (MSR) determinations with the agency (ies) responsible for providing the service (s). The purpose of this procedure is to assist the district in providing improved service to its customers. The service provider will be asked to attend a LAFCo meeting within a year (more or less) to inform the Commission how it is addressing the determinations made by LAFCo during the time since the Service Review was adopted. At that time the Commission may make further recommendations regarding the service (s) provided.

**Local Agency Formation Commissions
Law, Policy and Practice**

**Colusa Local Agency Formation Commission
January 2022**

LAFCO's Function

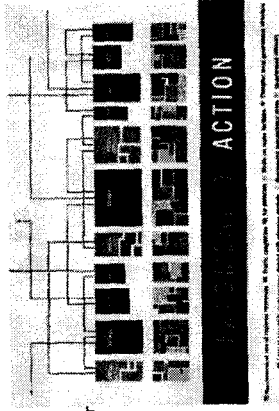
Implement State Policy on Local Agency Boundaries

- LAFCo's Oversee --
- Creation of New Agencies
 - Boundary Changes
 - District Services - addition or divestiture of powers
 - Extensions of Services Outside Agency Boundaries

Why LAFCOs Came About

Post World War II population and housing boom in California led to:

- Scramble to finance and extend services
- City annexation "wars," and proliferation of limited purpose special districts



In 1959, the Governor's Commission on Metropolitan Area Problems was established and issued a report identifying problems and outlining recommendations.

Lofty Goals -- Legislative Direction

From: California Legislature
To: LAFCO

- Promote Orderly Growth and Development
- Discourage Urban Sprawl
- Preserve Open Space and Prime Agricultural Lands
- Efficient Extension of Government Services

PS - Also consider Provision of Housing for Persons and Families of All Incomes, as well as environmental justice, adequate water and Regional Transportation Plans, disadvantaged communities, fire hazards



What the Courts have said

- LAFCO is engaged in the pursuit of an overriding State purpose
- State laws fully occupy the field. Direction comes from the legislature
- LAFCO is quasi-legislative; limited legal challenge to LAFCO decisions
- LAFCO is independent, not part of County or City Government
- LAFCO is the 'Legislature's watch dog' for governmental efficiency
- Cannot directly regulate land use, but must consider the impacts of land use in its determinations
- LAFCO appoints an Executive Officer to conduct its day to day business

5

What Grand Juries have said.....

LAFCO "was created by State Legislation to provide guidance and a legal check..... and has ultimate authority to approve, condition or deny each project"

"LAFCO has a limited parameter of responsibility, but within that realm, has enormous power"

"We see such authority causing inherent and perhaps necessary resentment, even animosity"

".....we see both institutions are working for a better County"

6

Legislative History

- 1963 – LAFCOs were Created
- 1965 – District Reorganization Act; Knox-Nisbet Act
- 1977 - Municipal Organization Act (MORGA) on city procedures
- 1983 - Deadlines to prepare spheres – LAFCOs must now plan
- 1985 - Cortese-Knox Local Government Reorganization Act
- 1993 - AB 1335 (Gotch) – Several reforms
 - LAFCO can initiate certain types of changes
 - LAFCO can waive conducting authority hearings
 - Easier to seat special districts on LAFCO
- 2000 - AB 2838 (Hertzberg) – More reforms
 - Broaden LAFCO funding – not just the County anymore
 - LAFCO is the conducting authority for boundary changes
 - Require periodic (5-year) sphere of influence updates
 - Require Municipal Service Reviews to update spheres
 - Requires city/county discussion re city sphere expansions
 - Require cities to pre-zone land
 - Add new LAFCO factors – water supply, regional housing

7

LAFCO Today ...



8

Balanced Interests – Independent Judgment

- 2 County Supervisors
- 2 City Council Members
- 1 public member
- 2 Special District members (in 30 of the 58 LAFCOs)
- One alternate member in each category



All commission members shall exercise their independent judgment on behalf of the interests of residents, property owners and the public as a whole ... (Government Code Section 56325.1)

9

LAFCOs Are Independent

- Commissioners make final decisions
- Adopt local policies reflecting unique local circumstances
- Decisions cannot be appealed to other administrative bodies
- Executive Officer accountable only to Commission and statutes

10

LAFCO is subject to the Political Reform Act

- Annual filing of assets (700 forms) and campaign contributions is required, plus
- Automatic disqualification from decisions related to entitlements for use

11

LAFCO Staffing

- LAFCO provides for its own quarters, equipment, supplies and personnel.
- LAFCO appoints an Executive Officer to conduct the day-to-day business and make recommendations on proposals
- LAFCO appoints a Legal Counsel
- LAFCO may either contract for staff services or have employees directly accountable to LAFCO

12

LAFCO Funding & Budget

- LAFCO must adopt a budget for each fiscal year (proposed budget by May 1st and final budget by June 15th)
- LAFCO is funded by the County, cities and special districts in equal thirds, or the Cities and the County in halves (in some cases)
- Authorized to charge fees to help offset expenses
- To reduce a LAFCO budget from previous fiscal year, The Commission must make a specific finding that it can complete its program with reduced funding

13

LAFCO Authority and Jurisdiction

- LAFCOs have broad authority to conditionally approve any proposal for a change of organization, reorganization, or sphere of influence.
- LAFCOs have this authority so they may effectuate the important policies LAFCOs are charged with protecting.
- LAFCO loses jurisdiction when a Certificate of Completion is recorded.

14

Laws and Procedures

- **State Law:** LAFCO actions are governed by the Cortese Knox Hertzberg Act of 2001.
- Other state laws such as CEQA
- **Local Policies:** Colusa LAFCO adopted additional Policies, Standards and Procedures (last updated in 2020).

15

As a Planning Agency LAFCO

- Prepares Municipal Service Reviews which examine public services
- Develops and updates Spheres of Influence for cities and districts
- Works cooperatively with public and private agencies and interests on growth, preservation and service delivery

16

As a Regulatory Agency LAFCO

- Considers modification of existing agencies and creation of new ones
- Can approve boundary changes if consistent with Spheres of Influence
- Controls extension of public services
- Is prohibited from directly regulating how land is used, however LAFCO must consider impacts of land use when making its determinations

17

CEQA Applies to LAFCO

- Bozong decision: LAFCO approvals are "projects" under CEQA
- LAFCOs are generally Responsible Agencies (using Lead Agency Environmental Documents) if Environmental Documents are not circulated to LAFCO by a Lead Agency or are inadequate, guideline section 15052 requires the Commission to assume lead agency status and prepare a new environmental document. If the Commission deems a lead agency's document is not adequate for its use, LAFCO may take the issue to court within 30 days, be deemed to have waived any objection, assume lead agency or prepare a subsequent EIR, if permissible (15066). HOWEVER, if the circumstances or the project has changed...???
- Categorical exemptions are tailored to LAFCO actions
 - Classes 19 and 20
- LAFCOs sometimes act as Lead Agencies (e.g., spheres of influence)

18

Spheres of Influence

- Commission shall, as necessary, review and update each agency's sphere every five years.
- A Sphere is defined as the "probable physical boundaries and service area of a local agency, as determined by the Commission".
- Since LAFCO cannot directly initiate most types of reorganizations, LAFCO signals its policy recommendations to local agencies and the public when updating spheres.
- LAFCO considers five factors when determining the sphere of an agency:
 - Present and Planned Land Use
 - Disadvantaged Unincorporated Communities
 - Present and Probable Need for Services and Facilities
 - Service and Facility Capacity
 - Relevant Social and Economic Communities of Interest
- In order to update a Sphere of Influence, a Municipal Service Review is necessary.

19

Sphere of Influence Case Study

Zero Sphere: LAFCO recommends dissolution

Reclamation District No. 2121 (Contra Costa)

Problems Identified in MSR:

- Inactive
- does not participate in the State levee subvention program
- does not file financial reports with the State Controller
- no adjacent districts are in a position to assume services for RD 2121; therefore, consolidation is not feasible

Solution:

- Contra Costa LAFCO recently updated the District's sphere to be a zero SOI
- A zero sphere means that zero territory is within the SOI
- This means the district should be dissolved
- LAFCO may now dissolve the District

20

Sphere of Influence Case Study

Detachable Sphere: LAFCO recommends detachment

Contra Costa Fire Protection District

Problems identified in MSR:

- The fire district serves a finger of territory that extends into the City of San Pablo. Serving the area is expensive and inefficient for the fire district.
- San Pablo has an extensive redevelopment project such that very little revenue was flowing to the fire district. The local fire service stood in the way of the logical service provider accepting the responsibility.

Solution:

- Contra Costa LAFCO recently updated the District's SOI to be a detachable SOI.
- A detachable SOI means that certain territory within District bounds is excluded from the sphere.
- This means that portions of the district should be detached.
- LAFCO is not empowered to initiate detachment, but recommended that it would like detachment to be proposed.

21

21

Sphere of Influence Case Study

Annexable Sphere: LAFCO recommends annexation

Contra Costa Fire Protection District

Problems identified in MSR:

- In the eastern portion of the County, the District was the primary and first-in service provider to territory within the bounds of another fire district.

Solution:

- Contra Costa LAFCO recently updated the District's SOI to be an annexable SOI.
- An annexable SOI means that certain territory outside District bounds is included in the sphere.
- This means that areas should be annexed to the District.
- LAFCO is not empowered to initiate annexation, but has recommended to the affected agencies and the public that it would like annexation to be proposed.

22

22

Basic Procedures for a Change of Organization

23

23

Changes of Organization

- Annexation or Detachment
- Formation a new district or Incorporation of new city
- Disincorporation of city or Dissolution of district
- Consolidation of cities or districts
- Merger of district into a city
- Create subsidiary district, i.e., city governs a district
- Exercise of new or different functions or classes of services by special district, i.e. latent power
- Reorganization combines two or more changes of organization into one proceeding
- LAFCO does not form JPA's or Mutual Water Companies.

24

24

Step 1 - Application to LAFCO

Application Contents:

- Resolution of Application (from an agency) or a Petition (from a voter or landowner)
- Plan for Services and proposal justification required: including financial information and services to be provided and why?
- Application, map and metes and bounds description per LAFCO standards
- Property tax agreement if required per Revenue & Taxation Code 99 or 99.01 (this process is completed in 10 days; - LAFCO may not set a hearing until there is an approved agreement)
- Pre-zoning Ordinance (for city annexations)
- Environmental Document (EIR, Negative Declaration, or Notice of Exemption)
- LAFCO fee and/or deposit, and BOE fees, as applicable.

25

Step 2 - LAFCO Review

- Accept application (must include Resolution of Application from an affected agency or Petition of Voters or Landowners)
- Staff review of application and supporting materials, including plan for service, maps, legal descriptions, CEQA documentation, etc.
- Certificate of Filing issued when documentation is deemed complete (90 day clock starts running)
- Public notice of LAFCO hearing (21 day notice)
- Executive Officer's report & recommendation distributed (5 days prior to hearing)
- Conducting Authority Proceedings (Protest Proceedings)

26

Step 3 - Commission Decision

- Commission reviews and approves or denies
 - Terms and Conditions are permitted
 - LAFCO determines the effective date
 - CEQA determination
- Reconsideration of a LAFCO decision
- Effect of LAFCO denial – One year waiting period
- Proceedings lapse a year from LAFCO decision if not completed or extended

27

Step 4 - Protest Hearing, if needed

- No hearing is required in some instances
 - For uninhabited annexations with total landowner consent
 - For inhabited annexations if all voters and owners have rec'd written notice and none have submitted written objections
- Special provisions for "island" annexations
- Protest hearing notices – publish, post, mail
- May delegate conduct of hearing to Executive Officer

28

Step 5 – Outcome of Hearing

- Number of protests determines outcome
 - Terminate if majority protest
 - Order change subject to election (only for inhabited territory- 12 or more registered voters) if protest threshold is reached
 - Order the change without an election
- LAFCO order confirms results of hearing

29

Step 6 – Election, if Required

- Only County or a city conducts elections
- Where is the election held?
- Regular election v. mailed ballots
- Vote results -- Majority needed? Two thirds?
- Election expenses -- who pays?

30

Step 7 – Administrative Filing

- LAFCO staff records Certification of Completion (including resolution and map)
- LAFCO staff files Statement of Boundary Change with State Board of Equalization and County Assessor and Auditor
- LAFCO staff notifies affected agencies and interested parties

31

LAFCO Considerations

What factors does the Commission look at when it reviews a proposal?

- Logical progression of boundaries
- Adequate agency service capacity
- Need for services
- Fiscal issues
- Impacts on other agencies
- Compliance with statute and policy
- Public comments
- Consistency with the appropriate General Plan

32

Case Study

Annexation – Adamson Annexation

- A residential/commercial development project for The City of Lakeport.
- The project area was not within the City's boundaries and in the only annexable location for the City to expand.
- City prepared the environmental analysis, approved the project, pre-zoned the project area, and applied to LAFCO on behalf of multiple landowners.
- LAFCO reviewed and commented on the City's environmental document during the process
- Just days prior to the LAFCO Hearing, the RWQCB issued a Cease and Desist Order and Connection Ban. LAFCO found the City had not demonstrated that it had capacity to provide essential wastewater treatment services to the annexation area and denied the annexation
- Upon clarification of the wastewater issues between the RWQCB and the City LAFCO again considered the annexation due to receiving additional permitted capacity.

33

Adamson Annexation

Residential/Commercial

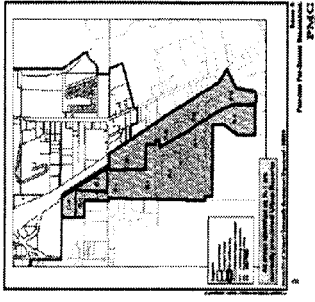
Water: from wells to City Water
Sewer: septic systems to City
Wastewater system:
Fire and Emergency Response:
Lakeport County FPD

Thirty Parcels:
148.87 Acres

Objectives:
Entire area annexed to the City
of Lakeport

Fire and EMS continues with
Lakeport County FPD

Detach from LACOSAN.



34

Conditions of Approval for Adamson

- Lifting of the RWQCB Connection Ban/Cease and Desist Order
- Detachment from LACOSAN
- Assumption of City Fees and assessments within the Annexed territory
- A waiver of protest proceedings was allowed.
- LAFCO adopted the findings and mitigation measures contained in the City's Environmental Review
- Approval was conditioned upon the applicant's obligation to indemnify LAFCO.

35

Case Study

Consolidation – Nice CSD, Lucerne Park and Recreation, Clearlake Oaks Fire, and Upper Lake Fire Protection District

- Consolidation of four fire and EMS agencies to provide fire and EMS as one unified agency
- New legislation had recently passed authorizing a consolidation of agencies formed under different principal Acts.
- There were Concerns over cost-effectiveness, administration and level of service.
- The four agencies formed the Northshore Fire Protection Authority to examine the possibility of combining administrative and operational activities under a single administrative unit.
- Over a three-year trial period issues such as implementation of services, standardization of services, and an application process to LAFCO.

36

The Districts jointly applied for a consolidation to form the Northshore Fire Protection District

Approved by LAFCO in 2006
LAFCO Conditions of Approval Included:

- Transfer of fire service responsibilities and resources from the Districts to NFPD
- Employees to become Employees of the NFPD - retention of rights
- Dissolution of the four districts
- Revenue - Respect historical distribution of funds- Benefit Zones

11

37

LAFCO Process

- Commission Can Approve, Condition, or Deny
- Commission has broad authority to develop conditions
- Some Projects – new Cities or Districts – are subject to Election
- Any Project is subject to Election if there is Significant Protest of Landowners or Residents

11

38

Conclusion

LAFCO's Function is:

- Quasi-Legislative
- Balances Competing Interests
- Decisions Must be Consistent with Policies
- Broad Discretion – Limited Jurisdiction
- Planning Responsibilities: Spheres and Service Reviews
- LAFCO acts as an independent referee among agencies and is distinct from a city/county or special district
- All of LAFCO processes are public

11

39